

104
**FEDERAL LANDS AND FEDERAL REGULATION OF
PRIVATE PROPERTY**

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HEARING
Federal Lands and Federal Regulation... THE
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS,
AND LANDS
OF THE
COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

ON

**GENERAL ACCOUNTING OFFICE FINAL REPORT ON 30 YEAR
TRENDS IN FEDERAL LAND OWNERSHIP AND PRIVATE PROPERTY
REGULATION**

MARCH 21, 1996—WASHINGTON, DC

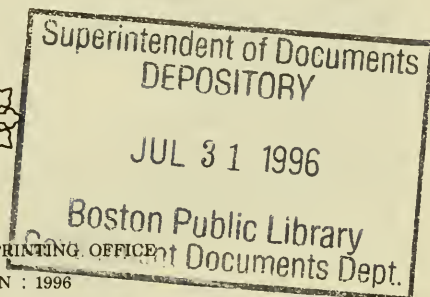
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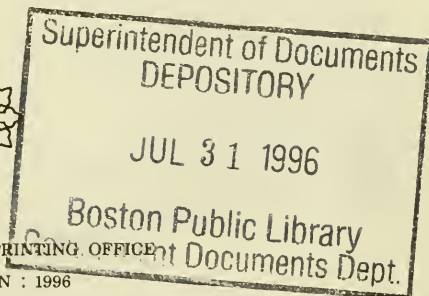
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FEDERAL LANDS AND FEDERAL REGULATION OF PRIVATE PROPERTY

THURSDAY, MARCH 21, 1996

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NA-
TIONAL PARKS, FORESTS AND LANDS, COMMITTEE ON
RESOURCES

Washington, DC.

The subcommittee met, pursuant to call, at 1:00 p.m., in room 1324, Longworth House Office Building, Hon. James Hansen [chairman of the subcommittee] presiding.

STATEMENT OF HON. JAMES V. HANSEN, A U.S. REPRESENTA- TIVE FROM UTAH AND CHAIRMAN OF SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS

Mr. HANSEN. Today the subcommittee is meeting to receive the final report from the General Accounting Office, which was requested by Chairman Young and Mr. Pombo over 2-½ years ago. The results of this review are astounding. Astounding not only for what is revealed, but for the information gaps left unfilled.

Last year, the General Accounting Office reported on the first half of this report about 30-year trends in Federal landownership. The facts revealed at the time were startling. The Federal Government owns 30 percent of all the land in the country, 650 million acres. Eighteen million acres, an area the size of the State of Maine, was acquired by the Federal Government in the lower 48 in the last 30 years.

Expansion of the Federal domain has occurred in 46 out of 50 States. In Arizona, California, Florida, Nevada and Wyoming, Federal ownership has grown by over 1 million acres. A total of 206 million acres, an area 3 times the State of Arizona, has been locked up in some type of permanent conservation designation, during the study period. Over 43 percent of the Federal land base is now locked up.

During the last year, GAO has been working on the other major elements of this request, to determine the extent to which private property is regulated pursuant to various environmental statutes. The sum total of that work is found in 1 paragraph on page 37 of the report. Amazingly, none of the Federal agencies have any clue on the extent to which their regulations, or Federal laws they implement, impact private property.

No idea how many acres are regulated under the Endangered Species Act, wetlands regulations, Coastal Barriers Act, Historic Preservation Act or any other of numerous environmental laws.

There should be no surprise that after years of ignoring private property rights, the American public is rising up in protest.

This has been an enlightening report, and I encourage every Member of this Committee to thoroughly study it. I can also see that this report clearly underscores the need for this Committee to reconsider future mandates to acquire more Federal lands, and to begin to assess the full impact of our existing laws on private property. I look forward to the testimony of our witnesses today.

Mr. HANSEN. Our first panel is Mr. Barry Hill, Associate Director, Energy, Resources, and Science Issues, General Accounting Office. Mr. Hill, could we get you to come forward please? Mr. Hill, how much time is your testimony going to take?

Mr. HILL. Mr. Chairman, if it pleases you, I will submit my formal statement for the record and just briefly summarize my remarks in five minutes or so.

Mr. HANSEN. OK, we will give you ten minutes because everybody on this hill thinks they can do something in five minutes, it always takes ten, and no disrespect to you. Members of Congress are notorious for underscoring or missing out on their guesses, so, Mr. Hill, you have got ten minutes, and the light in front of you will tell you when your time is up, and we will turn the time to you, sir.

STATEMENT OF BARRY T. HILL, ASSOCIATE DIRECTOR, ENERGY, RESOURCES, AND SCIENCE ISSUES, GENERAL ACCOUNTING OFFICE

Mr. HILL. Thank you, Mr. Chairman. Before I begin, allow me to introduce my colleagues. With me today is Paul Grace on my left and Sherry Casas to his left. Paul is the Assistant Director responsible for leading the work we have done regarding Federal land ownership. Sherry is a member of that audit team and will be assisting with the charts that we will be using today.

We appreciate the opportunity to be here today to discuss our recent report. The Chairman of the House Resources Committee and Representative Pombo which present among other things information on the lands managed by the four Federal Land Management agencies, namely, the Department of Agriculture's Forest Service and the Department of the Interior's Bureau of Land Management, Fish and Wildlife Service, and the National Park Service.

More specifically, this afternoon we will discuss the number and use of acres managed by the Federal land management agencies, the acreage of non-Federal lands where these agencies have obtained rights of use, acreage held in trust for Indians, acreage owned by 13 western States, and acreage involved in land transactions of three nonprofit organizations.

As you pointed out in your opening remarks, Mr. Chairman, while we were asked to determine the acres of private land under Federal regulatory control, agency data are generally not available and will prohibit us from providing such information this afternoon.

May I also point out that the information we are presenting is based on data provided by the four agencies, selected States, and others. Much of these data covers the roughly 30-year period be-

tween June 1964 and September 30, 1994, the most recent data available at the time of our work.

We have not verified the completeness, accuracy, and reliability of the data, although we did reconcile some inconsistencies in the agencies' data. In general, we believe the data provides a reasonable frame of reference for examining issues related to Federal landownership and management.

Let me now start by discussing the changes in the number of acres managed by these agencies over the last 30 years. From the end of Fiscal Year 1964 to the end of Fiscal Year 1994, the total acreage managed by the four agencies decreased from 701 million acres to about 623 million acres. As shown in our first chart, three of the agencies, the Forest Service, Fish and Wildlife Service, and Park Service had increases in the number of acres they managed totaling about 119 million acres while the Bureau of Land Management had a reduction of about 197 million acres it managed.

The overall decrease in acres managed by the agencies occurred primarily as a result of major land transfers to the State of Alaska and Native Alaskans. If you look at our next chart, you can see the percentage changes in the acres managed. Bear with us a second. We need to bring smaller charts, I think, next time.

This chart shows the percentage changes in acres managed by the agencies on a State-by-State basis, and as the map shows four States experienced decreases in the number of federally managed acres and the rest had increases. Most of the States, 32 of them, had increases of less than 1 percent. Acres acquired by the four agencies from non-Federal parties during the 30-year period totaled about 10.9 million acres.

Our next chart shows the number of acres acquired by each agency and the methods used to acquire the land. As you can see, the Forest Service acquired the largest number of acres, about 4.3 million, and the acquisition methods most often used by the four agencies included purchase, over 5 million acres, and exchange, about 3.3 million acres.

In addition, the agencies planned as of September 1994 to acquire an additional 11.8 million acres in future years. The uses of the lands managed by the four agencies also changed over the 30-year period. And as our next chart shows, acres managed primarily for conservation purposes or acres which had some limitations on their use, increased from about 66 million in 1964 to about 272 million in September 1994.

Included in these totals are all lands managed by the Park Service and the Fish and Wildlife Service, as well as a portion of the lands managed by the Forest Service and the Bureau of Land Management. Let me now briefly provide information on non-Federal lands and lands held in trust by the Federal Government.

In addition to acres managed, Federal land management agencies had obtained rights-of-use on over 3 million acres of non-Federal land through easements, leases, agreements and permits. For example, the Fish and Wildlife Service has obtained easements on a substantial number of acres to provide for waterfowl production areas.

With regard to lands held in trust, in 1995 about 52.3 million acres of land in 33 States were held in trust for Indian tribes and

individuals. Concerning State lands, as of September 30, 1994, 13 western States collectively owned about 141.9 million acres, most of which nearly 90 million acres was state-owned acreage in Alaska.

Finally, the Nature Conservancy, the Conservation Fund, and the Trust for Public Land collectively transferred by selling, donating or exchanging about 3.2 million acres to Federal, state, local governments or others during the 30-year period.

Mr. Chairman, this concludes my remarks, and we will be more than happy to respond to any questions that you or members of the subcommittee may have.

Mr. HANSEN. Thank you, Mr. Hill. Mr. Pombo from California.

Mr. POMBO. Thank you, Mr. Chairman. Mr. Hill, do you see in this pattern of Federal landownership, have you seen any changes in more recent years? You looked at it over a 30-year time period, but has that increased more in the last ten years?

[Prepared Statement of Hon. Richard W. Pombo follows:]

STATEMENT OF HON. RICHARD W. POMBO, A U.S. REPRESENTATIVE FROM CALIFORNIA

Thank you, Mr. Chairman, for agreeing to hold this hearing today on the second installment of an information request that Chairman Don Young and I made nearly two year ago to the General Accounting Office. As in the first installment in January, 1995, this report provides the Congress with information on land owned by the Federal Government and the percentage of that land which is set aside primarily for conservation purposes. In addition, this report contains very important information on non-Federal land subject to Federal rights-of-use such as easements and leases, lands held in trust for Indians, lands owed by the 13 western States, and lands that have been in and out of the hands of three major "nonprofit" land acquisition organizations.

Let me state from the outset that I appreciate the work that the GAO has put into this effort, and look forward to hearing their testimony today. This report contains very important and detailed information on the subject matter it has addressed. Almost as interesting, however, is the information that it does not contain.

Congressman Young and I asked the GAO to provide us with information on the regulation of private property and the amount of private land under the regulatory control of the Federal Government. Unfortunately, the GAO was unable to respond to this key element of our request. Not at all surprising to me, the GAO found that none of the Federal agencies tasked with the Administration of several regulatory programs (such as the Endangered Species Act, Wetlands regulations, Historic Preservation laws, the Coastal barriers Protection Act, and a host of other laws that have threatened private property rights) were unaware of just how much privately owned property is currently under their control.

As you know, Mr. Chairman, I am a strong advocate for the protection and the preservation of private property. As a fourth generation rancher, my life has been shaped by the traditions and values associated with proper stewardship of the land. Lately, however, this tradition is being threatened theses ever increasing and more stringent restrictions. I believe that Federal agencies have been abusing laws that were intended to preserve the environment and instead has used them to limit and regulate the use of private land. This is inherently wrong and we must take efforts to reverse this trend.

That is one of the reasons why I had hoped that the GAO could obtain information on the regulation of privately owned property so that we could get a better idea of just how much private land is being taken for Federal regulatory activities. The failure to do so, though not their fault, has made it all the more imperative for us to redouble our efforts to seek out this information. I will be looking to my colleagues on this subcommittee to work with me on this in the immediate future, and hope to have your support in that regard.

In reference to Federal and State land ownership, this report contains extremely important information from two perspectives—the protection of the environment and the protection of private property rights. The information contained in this report lays the foundation for a new vision in environmental policy. This new vision will protect the environment without infringing upon the rights of private landowners, and will do so in a manner that alleviates the budgetary pressures that the

current land acquisition process has helped to create. This vision, in simple terms, is the prioritization of Federally owned lands.

Later this year I intend to introduce legislation that will provide opportunities for Federal agencies to prioritize their Federal land base so that they are able to better manage the conservation lands they currently own, and to provide the necessary revenue to acquire private lands which are considered environmentally sensitive. This concept, which I call Federal lands prioritization, is quite simple. With its massive land base, the Federal Government can generate revenue by disposing property that is not currently in conservation status. This revenue can then be used to provide funds necessary to purchase—from willing sellers—property that is in the interest of society to protect for its environmental attributes.

This "Federal lands prioritization" can also be achieved by exchanging properties and interests in properties—of equal value—with willing private property owners in possession of environmentally sensitive lands. In an era of shrinking Federal dollars, this concept is a win-win-win. It achieves the very high standards that Americans have demanded of us to protect the environment, protect private property rights, and balance the Federal budget for future generations. By prioritizing our Federal lands—I firmly believe—we can deliver.

Thank you, again, for holding this hearing today. I am eager to hear the comments of the GAO, as well as all of the witnesses that will be testifying today.

Mr. HILL. Mr. Pombo, it depends how you look at this data and if you exclude the Alaska transfers which was extremely unusual type of transaction for the Federal Government, I think you would see a pattern over the 30-year period that is pretty consistent. We actually looked at this in terms of five-year intervals from 64' on and generally for the four land management agencies, excluding any Alaska land at all, it generally runs anywhere from about 2 to 3 million acres every 5 years this period. It is pretty consistent.

There was a period in 75' to 79', it was as high as 5.4 million, and in 70' to 74', it was as low as 1.2 million, but if you look at it over this period it is running about 2 to 3 million every five years of additional land.

Mr. POMBO. I notice in looking over your report that in the area that would have been dedicated to non-Federal acreage affected by selected environmental regulations that you were unable to obtain that information. What response did you receive from the agencies when that question was asked?

Mr. HILL. We checked primarily with the United States Corps of Engineers, the Environmental Protection Agency, and the Fish and Wildlife Service, and those are primarily the agencies that are managing and implementing regulations under the Clean Water Act and Endangered Species Act, and they just do not maintain that type of data.

I think the general feeling is they have not been required to maintain it and they just do not have records of it. Quite frankly, Mr. Pombo, we are somewhat surprised that the four land management agencies have a difficult time just keeping track of the acreage they own, much less some of the other information that you asked about what is happening on that acreage or what other acreage they are affecting.

Mr. POMBO. You say that they have a difficult time keeping track of the acreage that they owned. Is there not complete information that was available to you? Did you actually have to go in and construct your own?

Mr. HILL. We had a difficult time reconciling the data. In all fairness to the agencies, the historical data is difficult data to deal with. When you go back to 1964 much of the records were kept

manually. Many of the acres were jointly owned and neither agency was actually claiming ownership of them.

And the further back in time you go, the more difficult it is to reconcile the numbers. And I must give them credit. In recent years I think they have been doing a much better job of getting their automated records systems in shape, and they are doing a better job of keeping track of recent acquisitions and transactions.

Mr. POMBO. Do you think that their current records are up-to-date and the information that you are using obviously had to come from them. Do you have confidence in the numbers that you are using?

Mr. GRACE. I think with regard to the recent data, we are reasonably confident that it is accurate. Probably in the last five years since 1990 the data seems pretty good.

Mr. HILL. I may say that we testified in early February on this issue, and I must say we have even seen progress just in the last couple months in terms of them being able to reconcile some of these numbers that we had some differences in, so they are working on it.

Mr. POMBO. So there were some differences, but you think you are coming to—

Mr. HILL. We are closing the gap, that is all I can say.

Mr. POMBO. In terms of nonprofit owners of land, in looking through this I see that there are major landholders in several states. How much of the 3.2 million acres that the land trust transferred to other owners ended up in the Federal or local state government ownership?

Mr. HILL. The information we have for the three nonprofit organizations that we got information from, they were involved in a total of about 3.2 million acres of land, land transactions. The breakdown shows that 1.5 million of those acres were transferred to the Federal Government. About 1.1 million was transferred to state governments. About 91,000 acres were transferred to local governments. And the balance was transferred to either other conservation entities or other entities or organizations.

Mr. POMBO. Did you keep track of how these transfers were conducted, whether they were trades or sales, or were you able to obtain that information?

Mr. HILL. No, we have no information on that.

Mr. POMBO. You just know that the transfers took place?

Mr. HILL. We just inquired in terms of what acreage was transferred and who the acreage went to basically. That is all the information we have on that at this time.

Mr. POMBO. I may be mistaken on this, but was there not another GAO study that was done on those land flips, on the transfers like that? Are you familiar—

Mr. HILL. With nonprofit organizations?

Mr. POMBO. Yes. It may have come from somewhere else.

Mr. HILL. I think in the past we have done some work with the Forest Service in terms of land exchanges. Is that what it was?

Mr. POMBO. OK.

Mr. HILL. I am sorry. I am just not familiar with that particular study. If you have a question—

Mr. POMBO. I do not expect you to know everything that has come out of there. Mr. Chairman, I have no further questions.

Mr. HANSEN. Thank you, Mr. Pombo. Mr. Hill, in your testimony you state that the Federal agencies have indicated their intent to acquire an additional 11.8 million acres. Does that represent at all the lands now authorized or just what the agencies highest priorities are?

Mr. GRACE. As far as we understand, when they provided that data to us, that was characterized as lands that they would intend to pursue. I do not know whether it is their highest priorities or it is their total list or whatever, but at least it is lands that they felt that they wanted to pursue in acquisitions.

Mr. HANSEN. Does that include the—what was it, 100,000 acres from Florida that the Administration just announced recently that they intend to acquire?

Mr. GRACE. Well, it probably does not because—well, I do not know. We do not know.

Mr. HANSEN. It is 11.9 if we want to adjust the figure.

Mr. GRACE. We do not know whether the recent 100,000 acre purchase is included in that number or not.

Mr. HILL. We could find out if you would like, Mr. Chairman.

Mr. HANSEN. If you would, that would be very kind of you. We would appreciate knowing how much is additional acreage is standing in the wings ready to be acquired or at least asked for. Mr. Hill, have you prepared a summary of all categories of public lands, that is, Federal, state, native American, private and nonprofit on a state-by-state basis? Do you have anything like that?

According to agency officials we contacted, the Clinton administration's recently announced plans to restore the Florida Everglades by purchasing and removing from production approximately 126,000 acres of farmland would not substantially increase planned acquisitions. A large portion of the 126,000 acres is located outside the boundaries of the Everglades and Florida would receive funding to purchase these lands. In addition, most of 50,000 acres previously identified as planned acquisitions by the Park Service (which manages Everglades National Park) are inholdings located within the park.

Mr. HILL. Yes, we do have some information on that, Mr. Chairman.

Mr. HANSEN. We would appreciate you sharing that with us, if you would. I would appreciate it if we could look forward to you giving us that information so we could analyze it.

Mr. HILL. Sure, and the information we have is based on the 13 western states.

Mr. HANSEN. The states always come in here, and we hear governors and people talk about how many acres they have got, and yet one will talk of BLM and Forest Service. I would kind of be curious to know the breakdown if you include BLM, Forest Service, parks, Indian reservations, and military ground, those five. That would really give us a true picture.

In my home State of Utah out to the west of Hill Air Force Base is a huge area that is bigger than probably two or three eastern states which is never included in this, and I would kind of like to

know how that breakdown comes out. If you could, it would be very—

Mr. HILL. Sure. And just for your information, the information we have, I do not know if we have the military. We can certainly get that and add it to this, but for your State of Utah we show total acreage being about 54 million. The acreage managed by the four land management agencies is about 32.5 million.

Non-Federal acreage from which the agencies obtain rights-of-use was about 6,100 acres. Acreage held to trust for Indians was 3.7 million acres. Acreage owned by the state, we have was 5.7. Acreage held by nonprofits was 2.7. That basically leaves about 12.4 million acres that would be available for others to own, including local governments, private individuals, companies.

Mr. HANSEN. If you would not mind just checking your figures and see if the five that I mentioned, if the military is included in that. What about reclamation? How many acres, do you count that also?

Mr. HILL. No, that would not be included. The only Federal acreage we include were the four land management agencies, but we could include other Federal land as well.

Mr. HANSEN. I would appreciate that. Mr. Pombo, do you have any further questions you would like to ask Mr. Hill and his companions?

Mr. POMBO. I have no further questions at this time, Mr. Chairman. I would just like to remark to the panel that I do appreciate the work that you have done on this study, as well as the previous one that I had requested. It always seems to come back complete and with as much information as you were able to get, and I appreciate that and I look forward to working with you more in the future.

Mr. HANSEN. Thank you, Mr. Hill. I know it is an enormous task that you have been doing and thank you for all the work you have done on that. Believe me, we are all looking forward to being able to study this as we sit on airplanes by the hour and review it, and we will come up with a lot more questions to ask you at a later time which I would appreciate if you would be amenable to.

Mr. HILL. Oh, absolutely, Mr. Chairman.

Mr. HANSEN. Thank you so very much.

Mr. HILL. Thank you.

Mr. HANSEN. Our second panel is Mr. Mike Clark, Executive Director, Executive Director, Greater Yellowstone Coalition; Mr. Rob Gordon, Executive Director, National Wilderness Institute; Mr. John Shanahan, Policy Analyst, The Heritage Foundation; and Mr. Tom Kirby, Dade County Farm Bureau, Homestead, Florida. If those folks would please come up, I would appreciate it very much. Gentlemen, may I inquire of you how much time you need?

Mr. CLARK. Sir, I will take five minutes.

Mr. HANSEN. Can everybody stay within five minutes?

Mr. GORDON. I am going to try hard.

Mr. HANSEN. OK, we will give you a little prompting there. You see the spotlights in front of you there. That is just like when you are driving your car. When it is green, you can just do anything you want, when it is yellow, start winding up, and when it is red there is a cop on the corner that is going to grab that. So if you

would not mind, Mr. Clark, we will start with you, sir. Let me thank all of you for being here today.

**STATEMENT OF MIKE CLARK, EXECUTIVE DIRECTOR,
GREATER YELLOWSTONE COALITION**

Mr. CLARK. Thank you, sir, for inviting me to testify. I am Mike Clark, Executive Director of the Greater Yellowstone Coalition based in Bozeman, Montana. GYC was created in 1983 by citizens in the region who were concerned about land management issues in Greater Yellowstone. The region includes about 18 million acres of land.

Our membership is about 7,000 individuals and about 120 organizations around the region. It includes parts of three States. The challenge of managing public lands confronts us every day in Greater Yellowstone where four-fifths of the land is owned by public agencies, and managed for the benefit of the public.

The heart of it, of course, is Greater Yellowstone National Park. It also includes the country's first forest preserve, Shoshone National Forest. Although less than one-fifth of the core ecosystem land is in private ownership, these areas contain some of the most biologically and ecologically diverse lands in the United States.

These open spaces and agricultural lands help to define the unique role and character of the west and we care about them a great deal. The people in our country have accepted for a long time that a certain level of regulation is necessary to insure the quality of our neighborhoods and the common good. The idea of common good, shared by all is an essential part of American law and American life.

In the Rocky Mountain West, we view the public lands as a vital part of our neighborhoods as a place where people work and hunt and fish and enjoy the benefits of public lands. We expect public land managers to be good neighbors to our private landowners, and we also expect private landowners to be good neighbors to lands such as those in the National Parks.

While much of your focus today has been on the burdens that public lands might impose on private property, I think it is important to recognize that there are many benefits that accrue to private landowners who have land adjacent to public lands. You see that in our region, most particularly where I think that increasingly much of the economy is driven by the engine we call the public lands by people who are moving there to enjoy those lands.

More than 200,000 people live in Greater Yellowstone, and millions more visit each year. Our challenge is to develop protective measures which will insure the long-term integrity of public resources while still allowing prudent and thoughtful use of private and public lands together.

There are two issues that I would like to focus on today. The first is the geothermal wonders of the park and the protection of that. And the second one is the effects of mining on the park. Yellowstone Park is a park of superlatives. It is the last remaining intact geyser basin in the world. It has 200 geysers, 10,000 other features like mud pots and hot springs. There is nothing else like it in the world.

And the government has seen fit to impose certain kinds of limits on how development could take place around the park to make sure that the geothermal development does not affect the geothermal fields around Yellowstone. Congress has enacted several pieces of legislation to limit development to insure that the geothermal basins are not negatively affected.

And most recently, the State of Montana and Federal agencies have negotiated an agreement to resolve Yellowstone Park's reserved water rights dating back to 1872. This compact did several things. First, it placed restrictions on hot water use where the greatest potential for damage existed—so the private landowner could not drill into that geothermal field and affect Old Faithful, for example.

It established a permitting process for wells based on size, based on the ability of scientists to go in and be able to measure the probable impact of drilling. And it allowed for permits to be denied if there was any uncertainty about the impacts on the park. These are important criteria which we suggest could be applied in other places where access to public lands are in question or where restrictions might be needed to protect natural resources.

I would like to discuss also the issue of mining near the park. Your subcommittee has agreed to hold a hearing later this year on the proposed New World Gold Mine located two and a half miles from the park, and I will not go into detail about the threats we believe exist there. We will do that at the later hearing. I think it is clear that the American public will not tolerate a mining venture that would pollute waters flowing into Yellowstone Park. It is our first park, perhaps our most popular one, certainly one that has had enormous impact around the world.

And we believe that the exercise of a private right, mining right, that would possibly threaten Yellowstone Park, is something that has to be regulated. These two examples of how geothermal development and mining might affect a National Park illustrate how the public expects, even demands, that these valuable public resources be protected for future generations, and we think that is an important piece of what lies ahead for us in our region, especially when four-fifths of the land is owned by the public.

But we have also found, contrary to what you might read in the press, that conflict is not necessarily the way to resolve these issues. Increasingly, at the Greater Yellowstone Coalition we have looked for ways to work with private landowners in our neighborhoods and in our region to find ways to keep ranchers on the land, to keep these open spaces open, and to make sure that they can have viable operations.

We think we need these private lands to stay in private hands in Greater Yellowstone. And we are looking for ways to work with ranchers, farmers, local government officials, with citizens who own land, to make sure that these private lands remain private and can be viable ranching operations or commercial operations. This approach has been a new venture for us, and we have found much in common—and much to our great delight—because we have often found ourselves in conflict with some private landowners over issues, such as grizzlies and wolves and things like that.

We are finding more and more that environmentalists and ranchers have a lot in common. We are seeking creative ways to test that out. So I would suggest to you, sir, that there are often ways in which public lands and private landowners can work together. We are finding increasingly that is possible in our region. And we would be glad to share more information about that with you. I thank you for the opportunity to testify. I will be glad to answer questions.

Mr. HANSEN. Thank you, Mr. Clark. We appreciate your testimony. Mr. Gordon, we will turn the time to you, sir.

**STATEMENT OF ROB GORDON, EXECUTIVE DIRECTOR,
NATIONAL WILDERNESS INSTITUTE**

Mr. GORDON. Mr. Chairman, Congressman Pombo, Congressman Doolittle, on behalf of the National Wilderness Institute, thank you for this opportunity to appear before the subcommittee to address the impact of Federal landownership and regulation on private property, issues of great concern to NWI.

Before I get into the body of my remarks, I wanted to answer two things I think were brought up on the previous panel. First is as regards a report on transfers of land, I think you are thinking of something that was put out by the Inspector General, Department of Interior. Secondly, if you would like statistics on Bureau of Reclamation or military acreage on a State-to-State basis, we collected that, and I can provide that to you.

The recent GAO report, Land Ownership: Information on the Acreage, Management, and Use of Federal and Other Lands, demonstrates that the amount of government owned lands held in a restrictive management regime has grown enormously over the last few decades. In 1964, 9.4 percent of the lands managed by the BLM, National Park Service, Fish and Wildlife Service and Forest Service were restrictively managed.

By 1994, the management of 53.51 percent of the land controlled by these agencies was on a restricted basis. Yet even these figures underestimate the impact of restrictive designations because the total volume of land managed by these four agencies has grown significantly in all but a few States during the same timeframe.

Use of land under these restrictive designations is extremely limited. Such lands are generally managed for preservation rather than conservation which places greater demands on lands which are not similarly designated. In a study similar to the GAO's, we also found, as did GAO, that it was difficult to determine exactly which agencies are responsible for what lands and how much they control.

This alone is greatly disturbing, but even more so given the relentless pressure from many corners to add to these agencies' land portfolios. Additionally, we found that a significant amount of land is held by the branches of the armed services, the Department of Energy, the Bureau of Reclamation and others. These other Federal lands may be small by comparison to the National Park Service or Fish and Wildlife Service, but they still constitute a vast amount of land.

The GAO report would have presented a more complete picture if they had identified holdings by these other Government entities;

additionally, to present a complete picture of government lands held at both the Federal and state level simply identifying the state ownership of land in the west is not sufficient. County, cities and other such governmental units often own large amounts of land all across the country, as is the case in Wisconsin and Minnesota where counties own large tracts of forest land. To present some idea of the amount of government land, we prepared a map. As you can see, this map shows a tremendous amount of land held at the Federal and state level.

It is vast. Even still it does not show all government lands. A profound concern not significantly addressed in the GAO report is the extent of regulations and environmental designations that affect private property. The impact of these regulations and designations range from the immediate and sometimes severe restrictions that accompany the occurrence of species or habitat of species regulated under the Endangered Species Act to the cloud of uncertainty cast on someone's property rights when his land is included in a heritage area or National Natural Landmark.

While the GAO concluded that little information could be provided to depict the extent of the impact of the ESA, there is clear evidence that the impact is extraordinary. Through an extensive review of endangered species recovery plans, we found that the Fish and Wildlife Service considers vast areas regulatable or as targets for acquisition based on the occurrence of a given species or particular type of habitat.

Of the 306 plans we reviewed, at least 184 called for purchase or "securing" of property for endangered species. For example, the Recovery Plan for the blunt-nosed leopard lizard states, "a current target acreage figure of 30,000 acres has been established for the San Joaquin Valley Floor.

As you can see, we have also mapped the ranges of 790 regulated endangered species on a county-by-county basis, and that map reveals the massive potential impact of the Endangered Species Act on private property. The GAO report also does not address in any reasonable manner the amount of lands regulated under the Clean Water Act as wetlands.

According to one survey by the Department of Interior, there are some 300 million acres of wetlands in the United States. These are somewhat depicted here on this Interior Department wetlands map. The occurrence of wetlands brings a heavy regulatory burden on private property. A study NWI published shows that on average it takes a landowner over 373 days to get an individual 404 permit. 93 percent of the individual permit applications exceed the 60-day standard for evaluations specified in the Corps of Engineers regulations. Sixty-three percent of the individual permit applications decided in 1991 ended up being withdrawn. One out of four cases in 1992 involved impacts to less than one quarter acre of wetlands. Almost half involved less than half an acre. One person had to wait over a year for a permit that involved a piece of land smaller than half of a ping pong table.

Additionally, there is a good source of information that could have been used to look at wetlands impact or the existence of wetlands on private property. We have a program, the National Wetlands Inventory, which has been established to delineate wetlands

across the country, and additionally several reports have been produced by the Department of Interior which identified priority acquisition-sites, wetlands acquisition-sites.

The GAO report also did not include numerous other Federal regulations or environmental designations which have a tremendous impact on private property like the Coastal Zone Management Act. One tactic that is increasingly being used to gain control over private property is the use of environmental or cultural designations. These designations are purported not to have a regulatory impact; in reality, they do.

Many of these designations are not well known to the public, and when questions about them are raised such agencies tend to give false assurances about these programs which actually end up being regulatory or having an indirect, yet powerful regulatory impact. Just to give you some idea of the number and extent of some of these programs, let me mention a few by name. World Heritage Areas, Ramsar Sites or wetlands of international importance, National Heritage Areas and Corridors, National Natural Landmarks, United Nations Biosphere Reserves and Wild and Scenic Rivers.

In conclusion, let me say that we all want to continue living in a land of great natural beauty to save endangered species, to safeguard a healthy environment for our children, but for too long we have equated conservation solely with government ownership and regulation. I would like to conclude by asking that we take a fresh look at these assumptions that have led us to accept an expansion in government power in the name of the environment which should be a cause for great concern. Thank you.

[Prepared Statement of Mr. Rob Gordon may be found at end of hearing:]

Mr. HANSEN. Thank you, Mr. Gordon. I appreciate your testimony. You heard all those bells and buzzers go off while you were talking, and we have a motion to recommit followed by final passage, and the three of us will have to leave for a short time so we will stand in recess. Please do not go away. As soon as we have these two votes, we will be right back. Thank you for your patience and your understanding. We will stand in recess.

[Prepared Statement of Hon. Bill Richardson follows:]

STATEMENT OF HON. BILL RICHARDSON A U.S. REPRESENTATIVE FROM NEW MEXICO

Mr. Chairman, this is an interesting hearing. It reminds me of the old adage that you can use statistics as a drunken man uses lamp posts—for support rather than illumination. Statistics without context can be very misleading.

For example, why was the GAO review focused solely on that last 30 years? Could it be that the Land and Water Conservation fund act didn't become effective till 1965? or that the wilderness act didn't become law until late 1964 and that as a result there was no designated wilderness in 1964 to plug into the equation? There is no question that the amount of Federal conservation lands has increased as a result of wilderness being designated. Wilderness legislation has had strong support in the Congress and with the american public.

GAO is also reporting that the land managed by the Forest Service, Fish and Wildlife Service and the National Park Service has increased over the past 30 years, with nearly all the increase being with the Fish and Wildlife Service and the National Park Service. What you won't find from the GAO statement is the fact that nearly 79 percent of the two agencies increase is the result of the transfer of BLM land that was done as part of the Alaska Lands Act. To their credit, GAO does report that of the 10.8 million acres acquired from non-Federal parties, 4.9 million of those acres were acquired by gift, donation, or exchange.

Furthermore, the GAO states that 43.7 percent of Federal land is restricted for conservation purposes. Sounds Interesting except when you consider that while 100 percent of the FWS and NPS lands are classified for conservation purposes, less than 24 percent of the 458 million acres managed by the BLM and Forest Service are so classified. In addition, nowhere in the GAO's Testimony will you find any statistics on how public use of Federal lands has more than doubled or how visitation to our National Parks has exploded in the past 30 years.

And what about these restricted Federal Lands? The GAO doesn't tell us that these lands may have hunting and fishing, grazing, commercial developments, even oil and gas leasing. The fact that lands are designated as "conservation lands" doesn't mean they are locked up. They are used by millions of Americans annually.

I believe what the GAO hasn't testified to is as important as what it has reported. As I noted at the onset, statistics without context can be misleading. Let's get the whole story.

[Recess.]

Mr. HANSEN. Mr. Shanahan, Environmental Policy Analyst, The Heritage Foundation.

STATEMENT OF JOHN SHANAHAN, ENVIRONMENTAL POLICY ANALYST, THE HERITAGE FOUNDATION

Mr. SHANAHAN. Mr. Chairman, and members of the committee, thank you for inviting me here today to testify on the subject of Federal landownership and Federal regulation's effect on private property. I commend you for addressing this important topic. At the outset, I must say that I appear here on my own behalf and not as a representative of The Heritage Foundation.

My remarks will use as a starting point the newly released GAO report, "Land Ownership," GAO/RCED-96-40. This report provides the newest information available on, and is a much needed inquiry into, the interrelationships between Federal, State, nonprofit and private landowners. The report raises many issues that show the importance of, as well as the level of ignorance regarding, the Federal Government's role in shaping the economy of our communities and our nation as a whole, as well as directly affecting the livelihood and rights of countless Americans subjected to property regulation.

My remarks will focus on what I believe are the significant findings of the report as well as significant omissions. While this report, as well as its predecessor, "Federal Lands," GAO/RCED-95-73FS, is a significant step in the right direction, it is but a small step. Much more work needs to be done to give a clear picture of the magnitude and interrelationships of the problems caused by Federal ownership, control, and quasi-ownership of land in this nation. In my conclusion, I will recommend further actions and inquiry.

The conclusion that nearly 30 percent of the Nation is owned by four Federal agencies, the Forest Service, the Bureau of Land Management, the Fish and Wildlife Service, and the National Park Service, alone demonstrates the far-ranging impact of Federal land management decisions. Aside from any other conclusion, this figure alone is strong evidence that the sheer volume of lands owned by the Federal Government has significant impact on the shape and nature of growth of our communities, especially those communities that adjoin Federal lands and are thus constrained in their growth patterns.

While on its surface, the report may seem to indicate these constraints are being lessened because land held between the four major Federal landowner agencies has declined from the 700.8 million acres to 622.8 million acres over the last three decades, this total is deceptive. Indeed, the constraints due to increased government ownership are increasing rapidly and steadily across the country.

In fully 46 of the 50 states, Federal Government ownership is increasing. These percentages vary from increases of less than 1,500 acres in Rhode Island to more than 3.7 million acres in Nevada, and nearly three million acres each in Arizona and California. For the most part, however, the growth in Federal landownership has been steady, widespread and large. Indeed, fully one out of every five states has experienced a growth in Federal landownership of more than one-half million acres.

This growth is not significant. In California, for example, this growth represents an increase in Federal ownership of almost three percent of the total. Since almost 40 percent of the land in the state already was owned by the Federal Government, not counting Department of Defense landownership, this land acquisition represents about a five percent reduction in the amount of acreage in California left in private hands.

Government ownership of the country has increased over the last thirty years. While it is true that the total acreage of land under direct Federal Government ownership decreased, this decrease is caused almost entirely due to a transfer of 113 million acres of BLM land to the State of Alaska and to Native Americans. Absent this largely intergovernmental transfer, the amount of land in private hands in both Alaska and the Nation as a whole decreased significantly.

Indeed, less than 17 percent of Alaska is in private hands. Although transfers of Federal land to the States should be encouraged and represent a positive step forward in returning ownership of land closer to those who live closest to it, intragovernmental transfers within a single State should not mask the alarming trend of shrinking private property across the country.

The GAO report also provides strong evidence that the manner in which Federal lands are managed is a significant factor in shaping our communities, especially those that are heavily dependent on the output and use of Federal lands. This impact is compounded by the shifting management of these lands over the last thirty years away from utilization of resources toward conservation.

One of the most startling statistics in the report dealt with the percentage of Federal land managed for conservation, by this term it should be understood that the majority of land managed for "conservation" is actually managed for preservation. While the total acreage managed for conservation averaged 43 percent, these figures ranged from just under 9 percent in Alabama to 100 percent in Delaware, Maryland, Massachusetts, New Jersey, and Rhode Island, with some other States managed for conservation at over 99 percent.

The percentages were high even in large states with significant government ownership. For instance, in California, fully 78 percent

of the Federal land was managed for conservation. In Alaska, 63 percent is managed for conservation.

While the report made no attempt to classify changes in the percent of land managed for conservation, it is clear that the amount has increased dramatically. This can be seen by the trends among the four agencies themselves. These agencies differ in their basic missions and goals. Whereas Bureau of Land Management lands are primarily managed for multiple use, Fish and Wildlife Service and National Park Service lands are managed entirely with conservation in mind.

Indeed, in the case of National Park Service, the management is more accurately described as preservation, not conservation, which implies some use. Thus, to understand the changes in how Federal lands are managed, it is critical to look at how the composition of ownership has changed, in short, to see which agencies are increasing their holdings and which are decreasing.

The changes in the figures over the last thirty years are telling. The total acreage owned by the Forest Service, which traditionally was managed for sustained yield, has changed little compared to the other agencies. Increasing from 186 million acres to less than 192 million acres, an increase of less than three percent. However, the Forest Service now manages about 20 percent of its land for conservation.

The total acreage of BLM, which was managed primarily for multiple use, has been reduced. In contrast, the Fish and Wildlife Service, managed mostly for conservation, has increased its acreage by 386 percent, the National Park Service managed for preservation, by 279 percent. Preservation, in a vacuum, seems laudable, but it does not exist in a vacuum. There are serious costs to the ecology, human dignity and employment.

The effects of putting more land off-limit to use and production can be increased stress on ecological resources. Simply put, because there is a fixed or growing need for food, wood fiber and shelter, but less land. Preservation can be costly in human dignity as well. One need look no further than the controversy in the Northwest to understand the scope and nature of the problems as timber-dependent communities have been devastated.

Last, it is possible that there exists a relationship between government landownership and unemployment, quite independent of the dislocations and the job losses caused by changing management practices. The Heritage Foundation found a positive correlation across counties within Montana between the unemployment rate and the level of landownership by the Federal Government and Native American tribes.

While the relationship was not statistically significant, due largely perhaps to the small number of counties in Montana, calculations using rough data in other western states indicates that there well might be a statistically significant relationship. Further study, however, would be necessary.

A gaping hole in the GAO report is the lack of information on the amount of private land under the regulatory control of the Federal Government. The fact that GAO finds it so difficult to determine the amount of land acreage under the regulatory control of

the Federal Government is chilling testimony to how pervasive this form of quasi-government ownership is on our country.

I refer you to pages 9 through 13 of my written testimony to understand the philosophical underpinnings, importance of and uncertainty of property rights and why legislative oversight appears necessary.

In conclusion, I recommend that Congress take the following modest actions:

Require Federal agencies, as part of their appropriations, to compile detailed information on the amount of private acreage subject to regulatory controls under their authority. Further, that it request the GAO study, further GAO study, specifically GAO should present more information on the number of acres owned by all Federal Government agencies, including breakdown by county.

More information on the number of acres owned by States, including breakdown by county. Information on the number of acres owned by the localities, including usage. Data showing the difference over the last three decades of the amount and percent change of Federal land used for multiple use and sustained yield within each state with a breakdown again by county.

And, finally, GAO or CRS should do a study on the relationship between government ownership, both combined and separate, for Federal, tribal and state ownership, and the unemployment rate and calculated on a county-by-county basis, excluding the cities. Thank you very much for letting me present my views.

[Remainder of Prepared Statement of Mr. Shanahan may be found at the end of hearing:]

Mr. HANSEN. Thank you, Mr. Shanahan. I appreciate your testimony. Mr. Tom Kirby, we will turn to you, sir.

STATEMENT OF TOM KIRBY, DADE COUNTY FARM BUREAU, HOMESTEAD, FLORIDA

Mr. KIRBY. Thank you, Mr. Chairman, Members of the Committee, and also thank you for giving me the opportunity to address you today concerning the ever-expanding role that Federal resource agencies are playing in the control of private property in south Florida. My name is Tom Kirby, and I am the Executive Director of the Dade County Farm Bureau, located in Homestead, Florida.

Often overshadowed by its cosmopolitan and highly urbanized image is the fact that Dade County is one of the most successful agricultural regions in the eastern United States. Agriculture produces \$1 billion annually in economic activity and has some 25,000 full-time-equivalent employees.

Dade County agriculture is caught between Federal and State efforts to protect Everglades National Park and the farmers' reliance on the dependable operation of a poorly designed Federal flood control project that affects both the Park and the adjacent farmland. These efforts are being driven by an environmental agenda that has excluded the private property owners from any meaningful participation in the debate, and has relied more on politics and emotion than science to guide the government's actions.

Attempts to accurately define the environmental problem so an effective solution can be developed have been abandoned in favor of an ever-growing program of government control, if not outright

acquisition of private property. The State of Florida has enacted the most ambitious land acquisition program of any state in the union. Under a 10-year program called Preservation 2000, it will have dedicated some \$3 billion for land acquisition during the decade of the 90's.

In the early years the program concentrated on buying undeveloped land in order to preserve large undisturbed components of Florida's natural environment for future generations. However, the last few years have seen a pronounced shift in emphasis in the program in south Florida. With Federal land acquisition dollars diminishing, the Federal agencies, the National Park Service, and several conservation groups, most notably the National Audubon Society and the Nature Conservancy, have put intense pressure on State agencies in order to dictate how this \$3 billion is going to be spent.

The goal appears to be the elimination of agriculture and population growth near the Everglades, regardless of whether or not it is connected with some documented harm to the environment, or whether it is a necessary part of some restoration scheme that makes sense. Some of the most productive and profitable farmland in south Florida is being taken, costing local communities thousands of jobs and millions of dollars.

In south Dade County the National Park and the environmental groups have used their political muscle inside Washington to drive Congress and the Corps of Engineers to declare that 10,000 acres of our most productive and best land is essential for the restoration of Florida Bay. The project to accomplish this is yet to be designed, has no operating plan, and has no water quality permits from the State, yet thousands of acres of farmland have already been taken.

This is unprecedented in the 50 years of the Corps of Engineers' involvement in the water management system in Florida. It seems to be the philosophy of the present administration that jobs and private property are not important as long as some environmental group declares the sacrifice necessary for the Everglades.

In addition, and most recently, prime developable real estate from West Palm Beach to Homestead, often with no natural resource value, is being bought with the promise that the Federal Government will come back later with billions of dollars for the public works necessary to make the land useful for something. Again, there is no plan, no design and no funding, just an irresistible urge to control the use of property, through purchase if necessary.

The Federal property-control mentality has recently manifested itself in a new forum in Dade County. The staff of Biscayne National Park, a coastal preserve area south of Miami, and adjacent to Everglades National Park, is attempting to influence the land use designation process utilized by the county, our local government, to manage its growth. Rather than let the landowners and the county come up with plans that are compatible with both the Park and private property rights, the National Park Service is trying to prevent the owners from fully benefiting from the use of their property through down-zoning the property.

Mr. Chairman, and Members of the Committee, the desire to preserve and protect the natural environment is one of the strongest

philosophical movements in the modern world. It is broadly accepted and promoted by all segments of society, and that includes farmers and landowners. But there is one sure way to diminish that support, and that is through the heavy-handed participation of the Federal resource agencies in the local decisionmaking process.

The Federal staff members are hard workers and they usually mean well, but they do not live in our communities, they visit for two or three years and then are moved somewhere else in the bureaucracy. Their reward system is based in Washington and not the local community. They have to please Washington-based environmental groups in order to achieve career advancement, but are free to alienate people and local institutions that are left behind.

This is not good for the environment, and it is not going to foster any kind of broad support for Federal land management programs that is necessary for them to succeed. Thank you for listening to my comments today and for allowing me to testify.

Mr. HANSEN. Thank you very much. I appreciate the panel for being so patient today, but you folks know that is the way it operates around here. We do not control what goes on over on the House floor. Mr. Kirby, I can detect the same frustration in you that I do a lot of people regarding people who probably in your heart of heart feel are really true environmentalists who take good care of the ground and that type of thing and who are beat up constantly by the different agencies.

Throughout the last 20 years there has been such an abundance of legislation passed that seems to lend itself in favor of what many people consider an extreme position. I lived in Dade County in south Florida for a couple of years of my life, and I am quite familiar with the area.

I am distressed to hear that you feel that it is being closed up at the whim of people who are based in Washington and have little knowledge of what goes on in south Florida. Do you want to be more specific on that or do you feel that is happening on a regular basis, do you feel it has cut out agriculture and fishing, and all of the things that many people, south Floridians, believe in?

Mr. KIRBY. Mr. Chairman, I do believe that to be true. In conversations with staff members today, I asked in comparing notes, this is a big country we live in, and I am concentrated in my efforts down in south Florida, but we have a Federal interagency working task force that is working on the restoration of the Everglades. That is 11 different Federal agencies that meet on a regular basis and develop plans that include the acquisition of taking private property.

Mr. HANSEN. We keep hearing Administration asking for this 100,000 additional acres in Florida. What impact will that have? Where is it, do you know?

Mr. KIRBY. Mr. Hansen, I have been following the Everglades restoration movement for about five years now and I have the distinct privilege of being on the lower East Coast water supply plan advisory committee to the south Florida water management district. And this thing is evolving is the only way I know to put it.

Originally we were just talking about—well, actually historically it started with the Kissimmee River Basin. Then it moved into Lake Okeechobee. Then it moved through Everglades National

Park. Then it became Everglades National Park and Florida Bay. And now, sir, I predict to you that in the next four or five months it is going to be all of those things I mentioned, plus Biscayne National Park.

Mr. HANSEN. If I may ask all of you, it seems like the report we got from the GAO was pretty conclusive on the idea that Congress is continually increasing the land being managed by the Federal Government, but as we sit here in this committee and listen to the BLM, the Park Service, the Fish and Wildlife, the Forest Service, there is often testimony to the effect that they are not really doing a whole of a good job managing what they got.

What is your opinion of that, should we give them more, make them bigger, what would be your opinion? More would go to the States, more would stay in private ownership? In that very broad thing, you could drive a truck through, does anybody want to respond to that?

Mr. CLARK. Mr. Chairman, I would like to respond.

Mr. HANSEN. Sure.

Mr. CLARK. I grew up on the edge of the Smokey Mountain National Park on a farm surrounded totally by National Forests and the Park Service lands. Ninty percent of the land that my family used to own has been taken by the Forest Service. I think for the good of the country. That land is so wild and so rugged, it should be managed as a wildlife refuge and it is being managed that way by the Forest Service.

We have to accept the fact that our population is growing at a very rapid rate and the experts tell us that within 10-years 70 percent of our population will live within 100 miles of our coast. We have to be thinking ahead about how we manage these lands. The public lands that we all own are an enormous reservoir for us all in the future for our grandchildren, for genetic heritage.

The region I come from has probably got more concentrated Federal ownership than anyplace in the country, four-fifths of our land is owned by the Federal Government. I sometimes have problems with the way they manage that land, but you have to look at it in terms of the geography, the terrain, the climate, the historic use.

If we give away these lands and we lose our heritage, we will have lost one of the most valuable resources this country has, so I think we have to look at this with some balance, and we have to look at each tract of land in relationship to the context around it. We have to be very careful when we talk about giving away the public's lands. Thank you.

Mr. HANSEN. I never really understood the giving away problem of the ground. I look at the 13 States on the east coast and some of that area, and I kind of like the definition of an environmentalist. You know, they say a developer is someone who wants to build a cabin in the forest, an environmentalist is one who has already got one.

And if I may respectfully say so in my little State of Utah, there is a great movie actor who went into a place down by Provo, Utah, and bought a whole canyon. It was very pristine and very beautiful. There was not even a print, not even a path, and now it is all developed into theaters, into lodges and ski lifts and the whole

thing. The same movie actor goes out of his way to stop everybody else from growing. He is a big one to stop anything that we do.

I do not know what we are giving away. I think if it changes from Federal ownership to State ownership, I do not see where it changes much at all. I say that very respectfully, Mr. Clark. I personally feel that the State of Utah does a better job managing the ground that they own than the Federal Government does the ground that they own in the State of Utah.

I do not want it to be developed. I do not want it to be cut up. In many instances, I do not want those things to happen, but on the other side of the coin, it is always a question. Just like people come in here and they say this ground belongs to everybody, this is Federal ground you have in Utah, Nevada, Wyoming and those areas, it belongs to all of us.

But I have never seen anyone bring in a certificate that said they were ordained to be the spokesman for everybody, nor have I seen a petition signed by all the folks in Florida, New York, Ohio and Pennsylvania that said I am allowing Robert Redford to speak for me, these 200 million people, and be my spokesman.

So I guess we just give your opinions, you know. Up here we do our best, and I appreciate yours very much, and I think you brought up an extremely legitimate issue on probably our first park and an extremely important park to everyone of us and one that we are going to have to wrestle with somewhere, but that is done on a retail basis. Mr. Gordon, did you want to respond? You looked at me like you could hardly wait to say a word.

Mr. GORDON. Well, I would have to say that I somewhat disagree with Mr. Clark's sentiments. I think that there is way too much land in government ownership. There is so much land in government ownership, we do not even know how much there is. It has just reached an absurd point.

You certainly cannot manage something well if you do not even know how much you own. And there is an insatiable appetite among the Federal agencies to put more and more land into their portfolios. There is an assumption used to justify this and get some support from the public that if something is put into the management of one of these agencies, somehow it is going to be better off. And I do not know at what point in time that assumption ascended, but I think it is a wrong one.

There are people, generations of families in this country who have stewarded very valuable and marvelous natural resources, not invoking the Federal hand to do so. And any time something is of some value, is particularly unique in some manner, it does not mean it has to be designated or an easement or some type of government regulatory program is necessary.

And as regards the statement that a vast majority, 70 percent of the people will be living within the coast—100 miles of the coast, well, the majority of the Federal land holdings are not within 100 miles of the coast. They are in places like Nevada where you have 87 percent ownership, or your State or in Idaho where it is 67 percent. They just are not justifiable numbers.

Mr. HANSEN. Thank you. Mr. Shanahan, did you want—before you start, the gentlelady from Idaho, this is our—we only had two panels in this group, and we are talking, as you know, about Fed-

eral ownership and how it has dramatically increased in most of the agencies. And prior to this panel the GAO gave a very interesting testimony regarding it.

I happen to have a military construction committee waiting for me right now and I know a few other members want to come over and keep this pot boiling so if you would like to take the Chair and say anything you want to these very fine panelists here who have all given great testimony, I would be very grateful to you, and I will be back in three hours if you are still here.

Mrs. CHENOWETH. Thank you, gentlemen. I would like to take advantage of your being here and what a prestigious group, and I would like to give five minutes more at least to each one of you to get on the record what you would like to get on the record.

As you know, something that has been occurring in the west, and Mr. Cooley and I, and the other members of the Timber Task Force have experienced the fact that many States would be very interested in seeing an alternative form of management. It does not involve a question of who owns the land, but who will manage the land for the best result for both the natural resource, as well as the communities and the jobs.

And I would like to seek your advice and your testimony on the record with regards to this potential program. I know in Idaho we have just passed and the governor has signed into law just the last two days a bill that would allow our land board to negotiate with the Forest Service to have the State manage a forest or more than one forest, according to what the State feels they can do and do well under the State Forest Management Act.

And so it will be up to us to fashion something that dovetails with States like Idaho who has already passed that kind of legislation. Mr. Clark, if you do not mind, I would like to get your opinion on that.

Mr. CLARK. Thank you. As you know, we have a field office in Idaho Falls. We have I think over 1,000 members of the Greater Yellowstone Coalition who reside in Idaho. We have in general looked with some skepticism at the need to have land transferred from the Federal Government to the States and are concerned that in some of these situations the State might well find it to be a financial burden to suddenly have to manage large tracts of land that formerly were in the Federal Government's hands.

So I think the first thing you have to look at is the budgetary impacts upon a State. Is that the best use of its limited resources, especially given the educational challenges that our western States face in terms of educating our youth and managing the lands that are very widely dispersed and very large. So we have some concerns in terms of the financial impacts.

I also think that in general I see no great reason the Federal lands should be transferred to a State unless there is a particular tract of land that has a particular use that the State would like to use it for. In general, because we believe in ecosystem management, we think that the landscapes of the west that are publicly owned should be managed as ecosystems with a long-term view. And it is also difficult for States to be able to do that in the same way the Federal Government does because they have fewer resources.

Mrs. CHENOWETH. Mr. Clark, let me make myself more clear than I must have been in my first explanation, and that is that I do not think that Idaho or any other State that is looking at this is looking forward to a land transfer or an ownership transfer. I think that question is off the table.

I think what is on the table is management of the resources, either in co-management with the Federal and the State or State management, according to what the State feels they can handle. So I would be interested in your thoughts along those lines. And it could involve an ecosystem too, rather than a forest.

Mr. CLARK. I think there may well be—there are situations now where State and Federal agencies cooperatively manage tracts of land, and I see no reason why that cannot be done in general. You have to look at the particular tract of land that is under examination to determine whether or not that is the best course of action.

Mrs. CHENOWETH. Let me ask you, tell me a little bit more about your coalition. Is your coalition funded primarily by grants or contributions?

Mr. CLARK. It is funded—it is all private money. It is funded primarily by individuals. We have 7,200 members who are individuals. We also get grants from foundations, private foundations. They make up about 40 percent of our income.

Mrs. CHENOWETH. Mr. Clark, do you have anything else to add to the record on this?

Mr. CLARK. I appreciate you allowing me to testify. Thank you.

Mrs. CHENOWETH. Thank you. Mr. Gordon.

Mr. GORDON. Good afternoon, Madam Chairman. I appreciate the opportunity to expand on some ideas I have had with regard to this Committee hearing. I think that there are a lot of things that could be done in the GAO report if you were to return to it that could improve and expand upon.

I think undertaking this report was a good idea in the first place. There had been an assumption up to this point in time that there was basically nothing wrong with the government owning and regulating more and more land. I think it is an important step in the right direction that the Chairman and Mr. Pombo requested this report be done to point out that there is a serious question whether we are heading down the wrong path as regards managing our nation's natural resources.

But if you were to continue having the GAO conduct more extensive work on some of the areas that they omitted, I think it would be beneficial. Particularly one thing I would suggest is that perhaps they expand upon wetlands—the impact of clean water—404 regulations. There is going to be a sizable body of data available already produced by the division of the Fish and Wildlife Service, I believe, the National Wetlands Inventory in Florida that has been charged with delineating the occurrence of wetlands across the country; so we could have some type of idea of how many private lands were regulatable under that law.

Additionally, they could do a little more thorough work on the endangered species. Every time a species is added to the list the government generally produces a recovery plan and in that recovery plan the range of the species is often depicted so they could collect, gather and get all those ranges done at the same scale and

come up with some estimate of the areas where the species occur and therefore where the habitat is regulatable.

I am sure there is similar data for the Coastal Zone Management Act. We have done some studies on other environmental programs which have an effect on private property and I think that it would be beneficial to have the GAO perhaps do a little research in that area such as biosphere reserves which are managed under the Park Service's Man and the Biosphere program.

I believe there are at least some 47 in the United States right now ranging from 2,900 acres in size to 9.8 million acres. An additional thing I forgot under endangered species is HCP's which the report did deal with a little bit, but that could go into a little more depth including not only those that have been put forward and approved, but those which are in the planning stages.

In our studies we have found at least 63 HCP's some time ago ranging from 15 acres to a couple in California that totaled 10.5 million acres. There is also the World Heritage Program, a UNESCO Program, where there are some 18 World Heritage sites designated in the United States. There is the Ramsar Treaty, which covers wetlands of international importance. There are some 13 of those sites in the United States, ranging from 772 acres to 229,000 acres.

And there are hundreds of National Natural Landmarks and they range from a few acres to 8.63 million acres, as well as National Historic Landmarks. Some of those programs are clearly designation programs and arguably are not regulatory in nature, but they quite often end up provoking regulation at the local level or casting clouds and shadows on people's property.

And I would encourage you to have the GAO pursue some of these. I think that if Congress kind of curbs Federal agencies' unlimited appetite to willy-nilly regulate or add new lands or unique resources to these programs it will start to reestablish some of the trust that has been seriously eroded with landowners accross the country.

We need to shift from this reliance in our environmental policies from, first, government ownership, secondly, government regulation, third, central planning, and, fourthly, the National standards to some policies which use property rights and free market forces and rely upon States and lesser governmental entities to manage their resources at the locality. They are going to do a better job of it than the bureaucracies that are already oversaddled are going to do. Thank you.

Mrs. CHENOWETH. Mr. Gordon, the GAO found that three land trusts transferred 3.2 million acres to Federal, State and local governments in the last 30 years. What public policy problems do you believe this causes? In fact, the Conservation Fund in Idaho alone acquired 121,652 acres, transferred out of that 63,838 acres to the Federal Government, and then 814 acres to the State government. And then they retained ownership of 57,000 acres.

That is a huge chunk out of my State because only 25 percent of our land base originally was in private ownership. I think we should also include some of those and I know that your organization probably has been tracking some of that. Would you also rec-

commend that we track the acquisitions of organizations like Nature Conservancy?

Mr. GORDON. I think it is a good idea to try and identify the lands that have been kind of targeted by private organizations that have a history of transferring those lands to the Federal Government and have had a close relationship. There have been some problem where I think sometimes nonprofits or private organizations have basically approached people who would not have been willing sellers to government and therefore been a middle man in that kind of instance.

Or there have been instances perhaps where a private organization would buy something for which Congress had not appropriated funds and hold it until the agency could manage to get the funding because it was one of their priorities or their targets, but they could not get around to it so these organizations can act as advance purchasing entities.

And there is a very large program called the National Heritage Program administered in cooperation with a lot of State Fish and Game or Wildlife or Conservation agencies. It basically identifies lands that are considered to be unique in some way, some ecological or by other natural resource feature and I think it might be an interesting thing to identify which lands have been prioritized for either regulation, designation or purchase.

Mrs. CHENOWETH. Mr. Gordon, I want to thank you. You have provided very valuable information for us for our future work in this Committee as well as other task forces that are still being appointed, and I want to thank you very much.

Mr. GORDON. Well, thank you for the opportunity.

Mrs. CHENOWETH. Mr. Shanahan.

Mr. SHANAHAN. Yes, Madam Chair, thank you. I basically have three points to make. One is that I do think that we need to see more work done along the lines of what we have done in this GAO report. I see it as a positive and important, but extremely small, step forward. It is a sea shift, but nevertheless it does not take us nearly as far as we need to go. We need much, much more information as to Federal landownership, its nature and character.

And also States and localities as well. We need to—as well as tribal organizations. We need to have a fuller picture of how private land and communities are affected by public control of the nation's lands. In my testimony in my recommendations in the conclusion, I have a number of things that I put forward that I think would be important studies to conduct, such as looking at the relationship on a county-by-county basis as to Federal landownership and the unemployment rate within those counties.

The Heritage Foundation did a study in Montana, and it showed that there was a correlation between the amount of Federal landownership by county and the unemployment rate in that county. And what we would like to see is we do not have the resources on a nationwide basis for the entire west to do that, but we would like to see that kind of work done.

Mrs. CHENOWETH. Excuse me for interrupting you, but would you submit that as part of the record for this hearing?

Mr. SHANAHAN. We would be glad to.

Mrs. CHENOWETH. I would be very interested.

Mr. SHANAHAN. Another point that I would like to bring up is that Federal land—this report does show and testimony has been given that Federal landownership, easements, and regulatory controls of private land, has been growing out of control. And as a method to stop this, it seems that it is a simple thing, not necessarily politically but in terms of the mind set for the American public to say enough is enough, that we have a situation where if the least ecologically sensitive acre of Federal land when they own a third of the country cannot be given up, then surely the land that they want to regulate, the private land they want to regulate, cannot be so ecologically sensitive that they cannot forego another acre.

So it should be a one-for-one tradeoff. If they want to regulate an acre of land, they must give up an acre of land somewhere else. It is a simple matter of no net loss of private property. We are seeing an alarming trend downward in private property, and I would like to see that end.

The third point I have is that I have been part of an almost 2-½ year long dialog by the Keystone Center which is a center that runs dialogs among different groups that are very divergent in their viewpoints, and this was on ecosystem management. And they brought together 50 people, and we had some 8 or 9 meetings all over the country whereby there were many environmentalists.

There was the Heritage Foundation, a conservative organization, there were—a homeowners' association was represented. There were many Federal career employees, some Clinton Administration officials, a wide range of people. And we walked into the first meeting, and it was check your weapons at the door. The people looked at each other with great suspicion.

By the end of the year and a half there was much consensus. There was much divergence as well, but we learned where we could agree. And one of the areas that was agreed on by all, including all in the environmental community, who did not agree with these points at the beginning, was that if private landowners do not have their fears put to rest, not in terms of rhetoric, but in terms of a real way of making them not fear that their life's blood, their livelihood, their life's savings can be stripped from them, then ecological protection, environmental protection, will suffer.

So if we are to move forward and have an environmental program that makes sense, it is not just a matter of property rights, although I think they are incredibly important from a fairness issue and in the aspects of what the country was built on, but it is also a matter of if we are to develop a coherent viewpoint in attitude as to how to protect the environment, then we have to have protection of property. It is an absolute necessity. Thank you.

Mrs. CHENOWETH. Thank you, Mr. Shanahan. And our final witness is Mr. Kirby.

Mr. KIRBY. Thank you, Madam Chair. One of the things that we are concerned with in south Florida, and certainly not to play on your question, but is basically the mismanagement of lands. We are the only county, and we have the distinct pleasure of being the only county in this country to have two National Parks within our boundary.

We have Biscayne National Park to the east, we have Everglades National Park to the west. We have a very highly populated and continually growing urban population along our coastline, and we have a finite number of farmable acres in our community. I think it is very important to point out to this committee that the fact that we farm in south Florida transcends some of the things this committee is looking at on how to manage Federal lands.

Our small farming community in south Florida provides well over 50 percent of this Nation's winter fruits and vegetables so every one acre of land that the Department of Interior or any other Federal agency takes out of production is having a direct correlation on the food supply of this country. We have made that argument, tried to make it apparent to the Department of Interior, and I believe that the Department of Agriculture has been somewhat remiss in not bringing that to a cabinet level position.

So when you talk about management of Federal lands, we think that the private sector, the farming community, is indeed probably the best manager of the land in the area, and I can point out a situation to you that some might find funny if it were not so serious. We had 5,000 acres of land condemned at the behest of the environmental community and members of the Florida delegation for Everglades restoration purposes.

Again, as I Stated in my testimony with no plan, with no idea of how they were going to manage the property. The land was taken out of private ownership and then leased back to farmers to farm because it was viewed that, that was the best way to manage the land. There is a tract of land in Everglades National Park that was one of the most productive pieces of agricultural land in this country. It was not subject to flooding and it was not subject to freezes.

It operated in a microclimate that was known as the hole in the donut. That land was taken out of production and is now a 10,000 acre grove of exotic plants known locally as Brazilian pepper. I have heard folks from the Department of Interior say that it is going to cost upwards of \$400 million to remove those exotic plants from that property. To me that is very poor management.

Mrs. CHENOWETH. Mr. Kirby, I understand your county's population has many migrant farm workers who would lose their jobs when the Interior Department buys more land through the Everglades initiative. What will these people do when they lose their job? What will happen?

Mr. KIRBY. Most likely they will become the wards of local government. It is not an easily retrainable population. We do through the local school systems and through other learning institutions always provide the ability for these people, farm workers, to move upward into the system, into the mainstream. And that is an ever ongoing process, and I think you will find that people in the farming community encourage that.

But there are people who work in our community and they are not migrant farm workers, they are fulltime farm workers. In addition to growing winter vegetables, we also grow tropical fruits: mangos, avocados, carabolo, litchi nuts, those kinds of things. It is about a third of the size of the industry. So these folks are there on a permanent basis.

We also have the second largest ornamental horticulture industry in the State of Florida, and that is not a year round operation, it is not a seasonal operation. So you ask me what is going to happen to the farm worker community. I would venture to say that the vast majority of the people in that community would have to go on some sort of public relief program or a reeducation process.

It is interesting, however, and right in the middle of the geographic location of Everglades National Park and Biscayne National Park that the Department of Agriculture is building the largest farm worker housing—permanent farm worker housing project, in this country to the tune of some \$40 million.

And we are very grateful to have that and the farm worker community is very grateful to have that, but it seems—well, let me put it to you this way. It is not clear in my mind that the left hand knows what the right hand is doing. When you are condemning farmland and at the same time building permanent farm worker housing, it seems a little unusual to say the least.

Mrs. CHENOWETH. That has reminded me that maybe they can get Federal funding for basketball to spend their free time.

Mr. KIRBY. We have plenty of basketball courts in Miami.

Mrs. CHENOWETH. Mr. Kirby, I would be interested in seeing some information about that structure.

Mr. KIRBY. I would be more than happy to see that you get it, Madam Chairman.

Mrs. CHENOWETH. And I want to thank you for coming so far. I can tell you have come a long way. You have a very deep tan, and we do not have those kinds of tans up here yet, do we, Mr. Gordon?

Mr. KIRBY. Madam Chairman, in my defense I have not been to the beach, I am sure, in the last 5 or 6 years.

Mr. GORDON. Madam Chairman, I would just like to point out that Mr. Shanahan does not have a tan.

Mrs. CHENOWETH. Gentlemen, I want to thank you all, Mr. Clark, Mr. Gordon, Mr. Shanahan and Mr. Kirby, for your testimony. I do want to say that it is so unfortunate that when we have a panel like this that the other members could not have heard your testimony, nor could I hear it all, but I will be reviewing the record.

As you know, there is a lot going on today, and we are all pulled into different committee meetings and on the House with the immigration bill and lots of conference committees. But I thank you for your time and your efforts. And, counsel, how long do we keep the record open for any submissions that they would like—two weeks? As you know, we will keep the record open for two weeks for supplemental information. And this hearing is adjourned. Thank you.

[Whereupon, at 3:17 p.m., the subcommittee was adjourned; and the following was submitted for the record:]

REMAINDER OF PREPARED STATEMENT OF MR. JOHN SHANAHAN:

WHY PROTECTION OF PROPERTY IS IMPORTANT

The de facto taking of property through regulation, known popularly as "regulatory takings," now occurs under regulation of wetlands, endangered species habitat, and other property. One of the most burdensome hardships inflicted by regulatory takings is that owners currently are not reimbursed for their loss, and thus, can have their life savings wiped out. For instance, if an elderly couple spends a large portion of their retirement savings to buy property to build their dream home,

and that property is subsequently designated a wetland, the value of their property—and their savings—are gone. Unfortunately, tales of financial hardship caused by government designation of lands as wetlands and endangered species habitat have become commonplace. Further, the Administration is clearly on record as opposing payments to landowners when Office of Management and Budget Director Leon Panetta said it would be “an unnecessary and unwise use of taxpayer dollars” and would be a drain on the Federal budget. Landowners counter that regulatory takings are a drain on the family budget. Thus, the issue of regulating private land has quickly evolved into an issue of landowners asserting that their constitutionally guaranteed property rights are being infringed, and since the courts have been of limited help, that they need legislative protection.

To understand why legislative protection for landowners is needed, however, it is necessary first to understand the broader issue of governmental taking of property. The fifth amendment of the Constitution of the United States implicitly recognizes that the Federal Government may take your property for public use. In fact, the implicit power of government to take property, known as eminent domain, was recognized by the Supreme Court as early as 1795 in *Vanhorne's Lessee v. Dorrance* when the court found “the despotic power, as it has been aptly called by some writers, of taking private property, when State necessity requires it, exists in every government—government could not subsist without it.

The fifth amendment explicitly mandates, however, that the government must pay the property owner for the land confiscated. This concept, embodied in the clause “nor shall private property be taken for public use, without just compensation,” ensures that property taken for the public benefit is paid for by those who benefited—the public—and not borne by the citizen unfortunate enough to own land the government covets. In its most basic sense, it is a fairness issue. Why should one American bear the entire burden of the government's pursuit of a National good?

The Nation's founders well understood the positive economic consequences of protecting owners' investments in their property as well. If property is to be put to the best and highest valued use, it is important that ownership reside in the hands of those who value property for as much or more than the fair market value. If government had a free hand to take property without payment, the incentive to confiscate property that conferred just a small benefit to the public would be a frequent occurrence. After all, even small benefits outweigh a zero cost. The problem is that the costs are nonexistent only to the government. The actual costs, borne by someone else, often are substantial.

Another positive outgrowth of requiring just compensation is increased security of liberty. The founders, having seen the detrimental effects of King George's policies, understood that protection of property restrained usurpation of other rights under the Constitution. It is this relationship to which Supreme Court Justice Potter Stewart referred in *Lynch v. Household Finance Co. Inc.*, when he stated that there is a “fundamental interdependence—between the personal right to liberty and the personal right to property.

Practically speaking, governments are able to control individuals in a wide spectrum of activities if they control whether or not individuals remain financially secure or surrender their property. Thus, the majority truly can become a tyranny to a disfavored minority. As James Madison characterized the problem of individual civil rights in the *The Federalist Papers*, “it is that [pure] democracies have ever been spectacles of turbulence and contention; have ever been spectacles of turbulence and contention; have ever been incompatible with personal security or the rights of property.” It was to restrict just such tyranny over individuals that motivated the framers to put severe limits—like the requirement of just compensation—on what, under a pure democracy, would be the unchecked will of the majority.

Additionally, individual agents of the government can pose a threat to liberty if unconstrained. Since executive branch agencies are granted wide latitude in decisions of enforcement and interpretation of laws, if the Federal Government can take property without payment, legions of field agents will have the power to vent personal vendettas upon citizens who will have little recourse. While most Federal employees may steadfastly resist this temptation, such unchecked power is surely dangerous.

The Supreme Court has been fairly straight forward in requiring Federal, State and local governments to pay just compensation whenever these governmental bodies physically appropriate or occupy land or real estate. Essentially, the Court has held that, even if a square foot of land is taken, a takings has occurred and just compensation is required. Unfortunately, its decisions regarding regulatory takings have been less clear and consistent. Although the Supreme Court has begun slowly

to drift back to protection of property owners in recent years, many landowners are still insecure in their property.

For instance, in the Supreme Court case of *Lucas v. South Carolina* in 1992, the Court found that a regulation prohibiting property use which destroyed 100 percent of the property's value was a taking requiring just compensation. The Court, however, specifically declined to address the issue of whether anything less than a complete devaluation was a taking. Thus, it is uncertain whether the government must compensate owners when it significantly limits their property rights if the value left is, say, 20 percent of its previous fair market value.

Given the uncertainty surrounding property rights, it is unlikely that the fiscal trade offs that typically constrain private and government behavior, and thus encourage efficient uses of resources, will serve as a check on wasteful government regulation of private property. If wasteful regulations that deliver little or no environmental benefit at great economic cost are to be minimized so that our Nation's Economic Resources can be more wisely spent, and if fundamental fairness is to be restored, legislative oversight appears necessary.

Recommendations

To both clarify, and in part, rectify the problems existing in our Nation's current land use strategies and plans, I recommend additional actions and inquiry into the nature of the problem. In addition to the property rights bill passed by the House of Representatives last year, I recommend that Congress take the following actions:

(1) Require Federal agencies, as part of their appropriations, to compile detailed information on the amount of private acreage subject to regulatory controls under their authority.

(2) Require Federal agencies to transfer at least some of their vast land holdings to the States willing to accept ownership. At the minimum, the Federal Government should be required to transfer all land holdings in excess of 20 percent of the State's total acreage.

(3) Request further GAO study. Specifically, GAO should present:

- more information on the number of acres owned by the Federal Government, including breakdown by county;
- more information on the number of acres owned by the States, including breakdown by county;
- information on the number of acres owned by the localities, including use;
- data showing the difference over the last three decades of the amount and percent change of Federal land used for multiple use and sustained yield, within each State with a breakdown by county; and
- the relationship between government ownership both combined and separate for Federal, tribal, and State ownership and the unemployment rate by calculated on a county basis, excluding cities.

Thank you for this opportunity to present my views.

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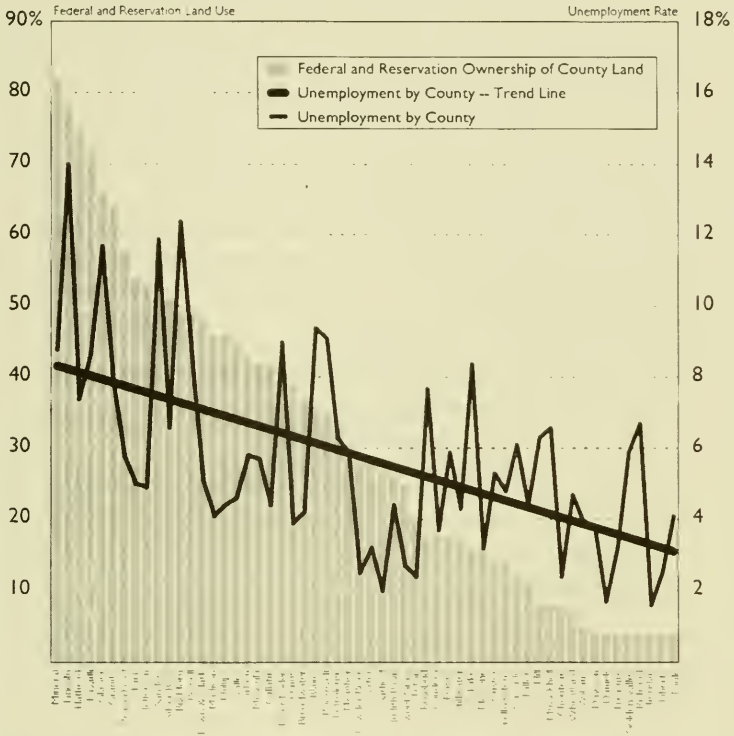
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MONTANA

Federal Land Ownership vs. Unemployment by County



Note: All data from 1993.

Sources: U.S. Department of the Interior; Bureau of Economic Analysis; Regional Economic Information System; The Heritage Foundation.

Testimony of

Rob Gordon
Executive Director
The National Wilderness Institute

to

The Subcommittee on National Parks, Forests and Lands

Washington, DC
March 21, 1996

Mr. Chairman, on behalf of the National Wilderness Institute, I want to thank you for this opportunity to appear before the Subcommittee on National Parks, Forests and Lands to address the impact of federal land ownership and regulation on private property. This issue is of great concern to NWI, and we recently featured this issue in our magazine, the NWI Resource.

I would like to begin by congratulating you for addressing the impact of federal ownership and regulation on private lands. In previous Congresses it seemed to be assumed that the more federal ownership the better. Clearly, this is an extremely outdated assumption. I also commend you for directing the GAO to undertake a study of trends in government land ownership.

The recent GAO report, "*Land Ownership: Information on the Acreage, Management, and Use of Federal and Other Lands*," demonstrates that the amount of government owned lands held in a restrictive management regime has grown enormously over the last three decades. In 1964, 9.4% of the lands managed by the BLM, National Park Service, Fish & Wildlife Service and Forest Service were restrictively managed. By 1994, the management of 43.51% of the land controlled by these agencies was on a restricted basis. Even these figures understate the impact of restrictive designations because the total volume of land managed by these four agencies has grown significantly in all but a few states during the same time frame. Use of land under these restrictive designations is extremely limited. Such lands are generally managed for preservation rather than conservation which places greater demands on lands which are not similarly designated.

NWI conducted research similar to the GAO's to determine the amount of land managed by various federal agencies, and I would like to submitted a related document with my written remarks. We found, as did the GAO, that it is difficult to determine exactly which agencies are responsible for what lands. This alone is greatly disturbing, but even more so given the relentless pressure from many corners to add to these agencies' land portfolios. With the ownership of many federal lands so difficult to attribute to a particular agency, the quality of the management of these lands surely must be suspect. Additionally, we found that a significant amount of land is held by the branches of the armed services, the Department of Energy and others. These other federal lands may be small by comparison to the National Park Service or Fish and Wildlife Service, but they still constitute a vast amount.

Additionally, if the GAO's report was intended to provide some idea of the amount of land owned by government as compared to privately owned lands, there should have been a more extensive effort to identify holdings by lesser government entities. Simply identifying the state ownership of land in the West is not sufficient. Counties, cities and other such governmental units often own large amounts of land all across the country. For example, in Wisconsin and Minnesota several counties own large amounts of forest land.

For a recent issue of NWI Resource NWI prepared a map showing how much land is held by government at the federal and state levels. I have included the magazine with my testimony. As you can see the extent of government holdings is vast, and this map does not show all of them.

An even greater concern not addressed in the GAO report is the extent of regulations and environmental designations that affect private property.

The impacts of these regulations and designations range from the immediate and sometimes severe restrictions that accompany the occurrence of species or habitat of species regulated under the Endangered Species Act to the cloud of uncertainty cast on someone's property rights when his land is included in a heritage area or natural landmark. While the GAO concluded that little information could be provided to depict the extent of impact of the ESA, there is clear evidence that the impact is extraordinary.

Through an extensive review of recovery plans, NWI has found that the Fish and Wildlife Service considers vast areas regulatable or as targets for acquisition based on the occurrence of a given species or particular type of habitat.

Of the 306 plans reviewed, at least 184 call for purchase or 'securing' of property for endangered species. For example, the recovery plan for the blunt-nosed leopard lizard says "A current target acreage figure of 30,000 acres has been established for the San Joaquin Valley floor, with acquisitions emphasis on optional habitats containing high density blunt-nosed leopard lizard (BNLL) populations in identified "priority" habitat areas... conflicting land users will be reduced or eliminated in an effort to restore habitat to optimal condition. Consideration for delisting would be appropriate when similar objectives have been obtained for adjacent foothill and plain areas known to contain BNLL populations."

Other examples include the eastern indigo snake with a recovery plan calling for "two 10,000-acre tracts recommended for acquisition: one in GA, one in FL," and the loggerhead turtle that has recovery criteria requiring that "25% of all available nesting beaches (560 km) is in public ownership..."

We have also mapped the ranges of 790 regulated endangered species on a county by county basis and that map reveals the massive potential impact of the Endangered Species Act on private property.

The GAO report does not address in any reasonable manner the amount of lands regulated under the clean water act as wetlands. According to one survey by the Department of the Interior there are some 300 million acres of wetlands in the United States. The occurrence of wetlands brings a heavy regulatory burden on private property. A study NWI published shows that on average it takes a landowner over 373 days to get an individual 404 permit. 93 per cent of the individual permit applications exceed the 60 day standard for "evaluation" specified in the Corps of Engineers regulations. 63 per cent of the individual applications decided in 1992 ended up being withdrawn. And most of these cases would have no significant effect on the environment. One out of four cases in 1992 involved less than one quarter acre of wetlands. Almost half involve less than half an acre. One person had to wait over a year for a permit that involved a piece of land smaller than half of a ping pong table.

The GAO report also did not include numerous other federal regulations or environmental designations which have a tremendous impact on private property like the Coastal Zone Management Act and others. One weapon that is increasingly being used to gain control over private property is the designation of cultural or environmental importance. These designations are purported not to have a regulatory impact. In reality they do. Many of these designations are not well known to the public and when questions about them are raised agencies tend to give false assurances about their being non-regulatory programs. Just to give you some idea of the number and extent of some of these programs let me mention a few by name: World Heritage Areas, Ramsar Sites (wetlands of international importance), National Heritage Areas and Corridors, National Natural Landmarks, United Nations Biosphere Reserves and Wild and Scenic Rivers.

We all want to continue living in a land of great natural beauty, to save endangered species, to safeguard a healthy environment for our children. But for too long we have equated conservation solely with government ownership and regulation. I would like to conclude by asking that we take a fresh look the assumptions that have lead us to accept a dangerous expansion in government power in the name of the environment.

I believe there is a better way to achieve our environmental goals. I call it the American conservation ethic. It is better for the environment and more consistent with our great heritage.

The American Conservation Ethic is grounded in experience, science, wisdom and the enduring values of a free people. It affirms that people are the most important natural resource and that we must be good stewards of the world around us for this and future generations. It is founded upon a deep

respect for the wonder, beauty and complexity of creation and is dedicated to the wise use of nature's bounty. It reflects every American's aspiration to improve the health and beauty of our environment and draws its strength from the most powerful force for improvement of our environment –free people.

The American Conservation Ethic works because, like the American people, it is practical. It applies the tried and true principles of individual rights and responsibilities to the conservation of our natural resources. Property rights create incentives that both reward good stewardship and empower individuals to protect their property from the harmful acts of others. The guarantee that we shall reap the fruits of our labor inspires the investment of time, money and effort necessary to expand upon centuries of accumulated arts and sciences. As we learn more, we are better able to be good stewards of natural resources.

The American Conservation Ethic relies upon science as a tool to guide public policy. Science is an invaluable tool for rationally weighing risks to human health and measuring other environmental impacts. Foremost among our measures of environmental quality are human health and well-being. Science also provides a means of assessing the costs and benefits of actions designed to reduce, control and remediate pollution or other environmental impacts. Central to the American Conservation Ethic is the understanding that scientific development, technological innovation and economic growth are essential for a healthier environment. As we increase our knowledge, we improve our productivity, efficiency and potential to innovate – and these achievements conserve energy, raw materials and other valuable resources. As we learn more about the natural world we discover how to get more than ever before from the resources we use. Progress provides the know-how, time and financial resources needed to fulfill our aspirations to improve the health, beauty and productivity of America.

The American Conservation Ethic is established on the fact that renewable natural resources are not fragile and static but resilient and dynamic. Such resources are continually regenerated through growth, reproduction or other naturally occurring processes which cleanse, cycle or otherwise create resources anew. Because these resources are continually renewed they can be used in a wise and responsible manner without the fear that they will be lost forever. Through progress we come to better understand renewable natural resources and the relationships among them. The knowledge gained improves our ability to wisely use and conserve these treasures for the benefit of current and future generations.

The American Conservation Ethic promotes workable means to reach our environmental goals, rather than depending on an inefficient centralized environmental bureaucracy. By relying on the first-hand knowledge and practical experience of local people and accounting for widely varying conditions, a

site and situation specific approach provides practical solutions to the environmental challenges we face. The greater the degree to which solutions to environmental problems reflect the knowledge, needs and desires of those individuals most affected, the more successful they will be.

America has unsurpassed natural wealth. Our abundant mountains, plains, forests and coasts, our lakes, rivers and streams, our wildlife and fish are unique in all of the world. They have provided for and have been cherished by millions of Americans for generation after generation. Our people – living, growing and creating within our rich culture of liberty – are our greatest resource. Americans today clearly aspire to improve upon our tradition of wisely using and conserving the world around us for generations to come. The American Conservation Ethic is the way to fulfill these aspirations.

The American Conservation Ethic recognizes that free people work to improve the environment. It relies upon empowering individuals to use, enjoy and conserve our environment. It inspires and challenges individual Americans to improve their surroundings and lives, and thereby the world we share. Cumulatively, these deeds make the most dependable and effective means to ensure the conservation of America's unique resources – a beautiful land and a healthy human environment and that which we all treasure most – people and liberty.

1. People are the most important resource.

All environmental policy should be based on the idea that people are the most important resource. The inherent value of each individual is greater than the inherent value of any other resource. Accordingly, the foremost measure of quality of our environment is human health and well-being. A policy cannot be good for the environment if it is bad for people. The best judge of what is or is not desirable is the affected individual.

Human intellect and accumulated knowledge are the only means by which the environment can be willfully improved or modified. Environmental policies should inspire people to be good stewards. Within the framework of equity and liability individuals carry out deeds that create incremental benefits in the quality or quantity of a resource or improve some aspect of the environment. Cumulatively these deeds result in progress and provide direct and indirect environmental benefits to society.

2. Renewable natural resources are resilient and dynamic and respond positively to wise management.

Renewable natural resources – trees, plants, soil, air, water, fish and wildlife and collections thereof – wetlands, deserts, forests and prairies are the resources we are dependent upon for food, clothing, medicine, shelter and to meet innumerable other human needs. Human life depends upon their use and conservation. Such resources are continually regenerated through growth, reproduction or other naturally occurring processes which cleanse, cycle or otherwise create them anew. While all living organisms and activities produce byproducts, nature has a profound ability to carry, recycle, recover and cleanse. These characteristics make it possible for us to wisely use renewable resources now while ensuring they are conserved for future generations. As Teddy Roosevelt, a founding father of conservation, recognized: *"A Nation treats its resources well if it turns them over to the next generation improved and not impaired in value."*

3. The most promising new opportunities for environmental improvements lie in extending the protection of private the creative powers of the free market.

Ownership inspires stewardship. Private property stewards have the incentive to enhance their resources and the incentive to protect them. Polluting another's property is to trespass or to cause injury. Polluters, not those most vulnerable in the political process, should pay for damages done to others. Good stewardship is the wise use or conservation of nature's bounty, based on our needs. With some exception, where property rights are absent, we must seek to extend them. If this proves elusive, we must seek to bring the forces of the market to bear to the greatest extent possible. There is

a direct and positive relation between modern market economies and healthy environments and a direct relationship between the complexity of a situation and the need for freedom. Markets reward efficiency, which is environmentally good, while minimizing the harm done by unwise actions. In the market, successes are spread by example while the costs of unwise actions are not subsidized but are borne privately with the result that such actions are on a smaller scale and of a shorter duration. We must work to decouple conservation policies from regulation or government ownership. In aggregate, markets not mandates, most accurately reflect what people value and therefore choose for their environment.

4. Our efforts to reduce, control and remediate pollution should achieve real environmental benefits.

The term pollution is applied to a vast array of substances and conditions that vary greatly in their effect on man. It is used to describe fatal threats to human health, as well as to describe physically harmless conditions that fall short of someone's aesthetic ideal. Pollutants occur naturally or can be a by-product of technology. Their origin does not determine their degree of threat. Most carcinogens, for example, occur naturally but do not engender popular fear to the same degree that man-made carcinogens do. Micro biological pollutants, bacteria and viruses, though natural, are by far the most injurious form of pollution. Technology and its byproducts must be respected but not feared. Science is an invaluable tool for rationally weighing risks to human health or assessing and measuring other environmental impacts. Human health and well-being are our primary environmental measures. Science also provides a means of considering the costs and benefits of actions designed to reduce, control and remediate pollution or other environmental impacts.

5. The Learning Curve is Green.

As we accumulate additional knowledge we learn how to get more output from less input. The more scientific, technical and artistic knowledge we have, the more efficient we are in meeting our needs. As we gain knowledge, we are able to conserve by substituting information for other resources. We get more miles per gallon, more board-feet per acre of timber, a higher agricultural yield per cultivated acre, more GNP per unit of energy. Technological advancement confers environmental benefits. Progress made it possible for the American farmer of today to feed and clothe a population more than two and a half times the size of the one we had in 1910 and triple exports over the same time frame while lowering the total acreage in production from 325 million to 297 million acres. That is 28 million acres less, an area larger than the state of Louisiana that is now available for other uses such as wildlife habitat. American agriculture has demonstrated that as an unintended consequence of seeking efficiencies, there are environmental benefits. As Warren Brookes, a great columnist and economic thinker used to put it simply, "The learning curve is green." This phenomenon has a tremendous positive effect on our environment and progress along the learning curve is best advanced by the relentless competition in the market to find the best or wisest use of a resource.

6. Management of natural resources should be conducted on a site and situation specific basis.

Resource management should allow for variation of conditions from location to location and time to time. A site and situation specific approach takes advantage of the fact that those closest to a resource are best able to manage it. Such practices allow us to set priorities and break problems down into manageable units. Natural resource managers, on site and familiar with the situation, whether tending to the backyard garden or the back forty pasture, are best able to determine what to do, how to do it and when to do it. They are able to adapt management strategies to account for feedback and changes. A site and situation specific management scheme fits the particulars as no government mandate or standard can. Additionally, a site and situation specific approach is more consistent with policies carried out at lesser political levels. The closer the management of natural resources is to the affected parties, the more likely it is to reflect their needs and desires. The more centralized management is, the more likely it is to be arbitrary, ineffectual or even counterproductive. A site and situation specific approach avoids the institutional power and ideological concerns that dominate politicized central planning.

7. Science should be employed as a tool to guide public policy.

Societal decisions rely upon science but ultimately are the product of ethics, beliefs, consensus and many other processes outside the domain of science. Understanding science for what it is and is not is central to developing intelligent environmental policies. Science is the product of the scientific method, the process of asking questions and finding answers in an objective manner. It is a powerful tool for understanding our environment and measuring the consequences of various courses of action.

Through science we can assess risks, as well as weigh costs against benefits. While science cannot be substituted for public policy, public policy on scientific subjects should reflect scientific knowledge. A law is a determination to force compliance with a code of conduct. Laws go beyond that which can be established with scientific certainty. Laws are based upon normative values and beliefs and are a commitment to use force. Commitments to use the force of law should be made with great caution and demand a high degree of scientific certainty. To do otherwise is likely to result in environmental laws based upon scientific opinions rather than scientific facts. Such laws are likely to be wasteful, disruptive or even counterproductive, as scientific opinions change profoundly and often at a faster pace than public policy. The notion behind the Hippocratic oath – first do no harm – should govern the enactment of public policy.

8. Environmental policies which emanate from liberty are the most successful.

Our chosen environment is liberty, and liberty is the central organizing principle of America. To be consistent with our most cherished principle, our environmental policies must be consistent with liberty. Restricting liberty not only denies Americans their chosen environment, but also constrains environmental progress.

Liberty has powerful environmental benefits. Freedom unleashes forces most needed to deal with problems. It fosters scientific inquiry, technological innovation, entrepreneurship, rapid information exchange, accuracy and flexibility. Free people work to improve the environment, and liberty is the energy behind environmental progress.

TESTIMONY OF RACHEL McCORMICK BROOKS

**On behalf of
Forest Landowners Association
and McCormick Farms
Spring Lake, North Carolina**

**To be submitted in the record as written testimony before the
HOUSE RESOURCES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES**

March 20, 1996

**ISSUES CONCERNING PRIVATE LAND USE
AND AGENCY REGULATIONS UNDER
THE ENDANGERED SPECIES ACT**

STATEMENT OF RACHEL McCORMICK BROOKS

The McCormick family is a family of twelve individuals belonging to three generations who range in age from 71 years down to seven years. Since 1791, we and our ancestors have lived on this land, enjoying the beauty of the piney woods, the open fields, the streams and marshes, the smallest creatures, the deer, the wildflowers and the wild huckleberries -- to name just a few of our favorites. Each fall we gather at one of the several Presbyterian Churches in this rural part of south central North Carolina with other descendants of John McCormick, great-great-great granddaddy of us all. John's original home still stands, and he lies in the cemetery surrounded by two of his sons, several daughters, and many of their descendants. John McCormick came to this country to enjoy a freedom that is now being threatened. Reduced to its simplest terms, that freedom is to own land and pass it on to one's heirs. As landowners, we recognize that we have certain duties and responsibilities not only to the land, but also to the plants and animals that share this habitat with us.

This land closely defines who we are and what we are about. This land has shaped our very being! Through the years the family has enjoyed good times and bad times -- more of the good than the bad. The family has made its living right here in North Carolina. As our ancestors established the farm, they began to use the forest land as well. Presently, we have about 250 acres of cleared land. Most of this land is used to grow feed for our cattle. In addition, we raise some cotton and lease out our small tobacco allotments. Periodically, family members moved away in search of work to provide money to raise and educate children, to help pay the taxes, and make improvements on the farm and in the forest. Eventually, many returned to the place they called home. Thankfully, this included my mother and father.

This present generation and our children acknowledge that the forest land has made a big difference in the flow of income through the years. As the men-folk often said, "This is poor soil and it takes a lot of fertilizer to make crops grow." Then they would quickly add, "The only thing that does well is longleaf pine on the ridges and shortleaf pine in the lower lying land." In the early days the pine trees were used to build log houses and barns and corn cribs -- some of which still stand. The forests also were used to produce turpentine and pitch. Additional trees were

cut and the logs were split to make rail fences; they were hewn to from railroad ties. A time came when a sawmill was built on the largest creek on the place. There at that creek logs, pulled by mules, were sawed into boards. Later, during my father's time the family owned a small sawmill which was used to saw the boards to build three new homes on the place. From time to time various tracts were clear cut. These tracts were sometimes replanted and other times natural regeneration was allowed to take place. Currently, we are being forced to cut all of the fully mature trees, and it looks as if we may have to cut other trees which are not mature due to our circumstances which we have not been able to resolve thus far.

Part of the reason we have this current problem is that the family never cut trees unless there was a very good reason to do so. These reasons included wild fire damage to trees, insect infestations, and payment for school and college tuition. As a result of this kind of forest management we have many old growth pines. In our old growth forests we have two or more colonies of Red Cockaded Woodpeckers for which we are required to provide foraging habitat. Besides these colonies, we also share numerous colonies with Fort Bragg. Therein lies our story.

We can no longer afford to manage our timberland as we have in the past. As property values rise and property taxes increase on the farm, we are compelled to increase our productivity. However, the environmental community, represented by the U.S. Fish and Wildlife Service, the Nature Conservancy and others, has expressed concern over our plans. They do not want anything to happen to the environmental value of our timberland. Yet, the financial objectives of our farm have been set by the IRS. If we hope to beat these financial targets, there can be little room for environmental preservation.

Fort Bragg has also expressed an interest in our plans. Our farm abuts Fort Bragg, and they are interested in maintaining a one-half mile wide buffer of private property around the military base. Inside this buffer, they would like to minimize the amount of commercial and residential development. In the past, we have unwillingly cooperated with Fort Bragg in their plan. However, the IRS and the local tax assessors have decided the most profitable and best use of our farmland to be residential and commercial development. Coping with this decision from a tax standpoint makes it almost impossible to accommodate those who are concerned exclusively with

environmental and endangered species issues. This is true although the IRS made some concession to the plea made by the US Fish and Wildlife Service on our behalf.

The controversy and contradictions associated with the enforcement of the Endangered Species Act and the lack of concern of the IRS delayed the settlement of our aunt's estate and caused considerable loss of income. The delay in timber sales alone resulted in our missing the high market prices of timber. Timber would have to be cut, and the land to be subdivided and sold to generate the funds to pay the federal estate and state inheritance taxes. The U.S. Fish and Wildlife and the Army are both scrambling in an attempt to save the farm. We welcome their help, but the irony of the situation does not escape us.

To summarize what has happened since our aunt's death on November 6, 1992, I list the following events:

From our aunt we inherited slightly more than 50 percent of the A.A. McCormick estate in which we all owned individual interests. Before her death we were the owners of about 49 percent of the estate.

At considerable expense we had the real estate and timber appraised. With the assistance of our attorney and accountant we filed the appropriate documents with the county, state and federal governments.

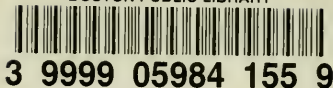
Subsequently, the IRS initiated an audit of the federal return. We had used the Henry guidelines to determine how much land and timber was affected by the Red Cockaded Woodpecker. To our knowledge and to the knowledge of those associated with the appraisals, we had applied the correct guidelines. Unknown to us, the U.S. Fish and Wildlife Service had written a new set of guidelines for private landowners which had been circulated during October, the month immediately preceding our aunt's death. The distribution of these guidelines was limited to other U.S. Fish and Wildlife Service employees, and to a few other people for comments and criticisms. Later, when we learned of this new set of guidelines, we requested a copy and were informed it had not been approved and was not yet available to the public.

After some time had passed, we were told by the IRS and the U.S. Fish and Wildlife Service that the new guidelines, referred to as the Costa Guidelines, applies to private landowners. At the request of that service we submitted a proposal to cut timber in the bird area using the Costa guidelines. Our proposal was accepted, and we proceeded to invite bids on timber located in two separate areas. We discarded plans to cut in another area because Fort Bragg birds were using our trees for foraging. It was not until the loggers had moved their equipment onto one of the tracts we had sold that we were

informed the cut could not proceed. It was at this point we realized we were not being allowed to harvest trees under the Costa Guidelines despite the representations made by the IRS and the U.S. Fish and Wildlife service. When we protested and explained our situation, the U.S. Fish and Wildlife Service chose to apply the Henry guidelines that earlier had applied only to federal property.

During the almost four years that have elapsed since our aunt's death, we have endured the uncertainties and have felt that we were at the mercy of representatives of various federal agencies who had conflicting interests in our land. All along we have clearly stated to all the parties involved that we were not interested in entering any long term conservation easement or lease. This also included the Nature Conservancy and its desire for an easement that would run with the land in perpetuity.

In conclusion, may I ask, "Can we expect and count on our government to protect the rights of individuals and family groups to own land and make decisions under the laws of local, state and federal governments regarding the use of their property? Can the laws be clearly stated, regulations quickly written, and most of all, applied equally?" Finally, we feel that if either the local, state or federal government in its wisdom decides it is in the interests of the public for individuals to provide land and services for the good of all, then it seems to us that those landowners should be compensated.



Congress of the United States
House of Representatives
Washington, D.C. 20515

September 27, 1993

Mr. Charles M. Bowsher
Comptroller General
United States General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Bowsher:

As Members of Congress, we are increasingly concerned about current trends in government land ownership and government regulation of private property. Clearly, there are situations where regulations are necessary for public good, such as controlling discharge of toxic wastes, which could infiltrate drinking water aquifers. However, increasing government control over private property is also known to have the potential for causing significant adverse economic impacts. Therefore, such controls must be applied judiciously.

In order to better understand and evaluate the trends in government land ownership and regulation of real property, we would appreciate your response to the following questions:

1. (a) Federal land ownership is annually summarized on a state-by-state basis in the Public Land Statistics published by the Department of the Interior. We have summarized this data for the last 25 years, which shows an overall reduction in Federal land ownership during this period. However, on a state-by-state basis, we find that the states where Federal acreage increased, out-numbered those where it decreased and that the State of Alaska alone accounts for most of the decrease in Federal acreage. What these tables do not reflect are the fundamental reasons for these increases and decreases. We recognize that you cannot categorize every Federal title change, but the gross reasons for these changes in recent years should be identified.
- (b) What techniques does the Federal government use to acquire lands? How much land has been acquired through condemnation in recent years by the Federal government? Please provide both the annual number of tracts and gross acreage acquired. How much land has the Federal government acquired by donation in recent years?

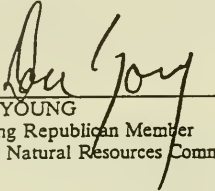
(c) How many acres (what percent) of Federal lands are currently encumbered by legislative or administrative designations for primarily conservation purposes (all areas administered by National Park Service, Wild & Scenic Rivers, National Trails, National Conservation Areas, Recreation Areas, Areas of Critical Environmental Concern, Research National Areas, wilderness, etc.) and what has been the recent trend in such designations?

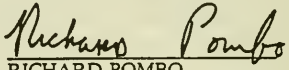
2. What is the amount of land currently owned by each of the following: (a) state governments; (b) county governments; (c) municipal governments; (d) private conservation groups; (e) universities; (f) churches; and (g) boy scouts, 4-H, and other non-profit organizations? What are the recent trends in land ownership by each of these groups on a nationwide basis?
3. What is the total acreage of restrictive easements for greenways, viewsheds and other conservation purposes or development rights which have been acquired by the 4 primary Federal land management agencies, other levels of government or private organizations in recent years? What is the comparative cost between scenic easement acquisition and fee simple acquisition?
4. Please list all Federal environmental statutes which provide for regulatory control of private land. What is the total amount of private land which is either directly or indirectly under the "regulatory" control of the Federal government? This should include lands which are under broad regulatory control, as well as site-specific regulatory control. Broad regulatory control, for purposes of this analysis, must include at least those lands impacted under the following provisions of law: (1) wetlands as defined under the Water Pollution Control Act; (2) critical habitat as defined under the Endangered Species Act or other endangered species habitat areas where consultation with Fish and Wildlife Service or mitigation is required; (3) all lands defined under the Coastal Barrier Resource Protection Act; and (4) all lands listed on or determined eligible for the National Register of Historic Places. Site specific regulatory control includes areas with defined boundaries such as the Columbia River Gorge Scenic area, as well as inholdings within the boundaries of Federal conservation areas. What has been the trends in the amount of private lands under Federal "regulatory" control in recent years?
5. Please provide a summary of the above data on a state-by-state basis to the extent practicable in recent years. In other words, what are the trends in private land ownership nationwide?

6. What are the general economic consequences of this amount of land removed from a productive status, both in terms of loss of economic/resource development opportunities and shifting the property tax base to fewer land owners on a shrinking land base?

Thank you for your response to this request.

Sincerely,


DON YOUNG
Ranking Republican Member
House Natural Resources Committee


RICHARD POMBO
Chairman
Private Property Caucus

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